

//Denver, Colorado/REVISED MUNICIPAL CODE City and County of DENVER, COLORADO Codified through Ord. No. 65-08, enacted Feb. 11, 2008. (Supplement No. 95, Update 1)/Chapter 39 PARKS AND RECREATION*/ARTICLE II. SCHEDULED EVENTS

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DIVISION 1. GENERALLY*

***Editor's note:** Section 2 of Ord. No. 55-08, adopted Feb. 4, 2008, amended div. 1 in its entirety to read as herein set out. Former div. 1 pertained to similar subject matter and derived from the 1950 Code.

Sec. 39-61. [Purpose.]

This article regulates all scheduled events in parks.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-62. Designated locations for sound amplification.

(a) The council hereby designates the Greek Theatre in Civic Center and the City Park Pavilion in City Park as adequate and suitable places for the holding of events that require sound amplification.

(b) The council may from time to time by resolution designate other parks or portions thereof available for the holding of such events.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-63. Orderly conduct.

Scheduled events in city parks shall be conducted in an orderly and law-abiding manner.

(Ord. No. 55-08, § 2, 2-4-08)

Secs. 39-64--39-70. Reserved.

DIVISION 2. PERMIT

Sec. 39-71. Required.

It shall be unlawful to hold any scheduled event within the parks of the city unless and until a permit therefor has been issued as provided in this division, or, for assemblies, division 3 of this article.
(Code 1950, § 311.1-1; Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-72. Application.

(1) *Permit application:* Applications for permits to hold scheduled events shall be made to the manager of parks and recreation and shall contain such information as required by the manager of parks and recreation.

(2) *Insurance:* The manager of parks and recreation may require proof of liability insurance coverage in such amounts as the manager may specify. In addition, the manager of parks and recreation shall require proof of liability insurance minimum coverage: one hundred thousand dollars (\$100,000.00) property damage and three hundred thousand dollars (\$300,000.00) personal injury for all uses which include one (1) or more of the following: amplified music, organized, competitive road races, and/or commercial advertising.

(Code 1950, § 311.2; Ord. No. 100-89, § 1, 2-27-89; Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-73. Issuance; limitations on scope.

(a) The manager of parks and recreation shall issue said permit on the receipt of an application as set out in section 39-72, provided that:

(1) The facility desired has not been reserved for other use at the day and hour requested in the application; and

(1.5) Historic usage scheduled events and assemblies, where the same applicant has been granted use of a particular park at a particular date, time and place for more than two (2) consecutive years, shall have priority for that park for that date, time and place;

(2) Where the event will have more than twenty-five (25) participants, be catered, involve the use of a truck, or, in the opinion of the manager, require the city to expend funds over and above the normal costs of operating and maintaining the permit area, the applicant for the permit has deposited with the manager a sum of money sufficient to defray any cost to the city of the permitted event;

(3) The stated purpose is not to incite to violence or crime or the overthrow of the government by force;

(4) The use of fireworks, including fireworks displays otherwise permitted by law, shall not in any event be permitted in any park designated as such pursuant to the Charter; and in no event shall permits for such fireworks displays be issued by the fire department when such displays are proposed to be held in such parks of the city; except, that this subsection shall not apply when toy cannons or blank cartridges are used in connection with scheduled and permitted cultural events, including concerts, plays and the like, or in connection with scheduled and permitted athletic events, including bicycle races, foot races and the like.

For the purposes of this subsection, the term "fireworks" means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, rockets, roman candles, dayglo bombs, sparklers, fountains, and torches, or other fireworks

of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other devices containing any explosive substance. "Fireworks" does not include: toy caps which do not contain more than twenty-five hundredths (0.25) of a grain of explosive compound per cap; nor trick matches, cigarette loads, trick noisemakers, toy smoke devices, and novelty auto alarms; nor highway flares, railway fuses, ship distress signals, smoke candles, and other emergency signal devices.

(b) Each permit shall pertain to a single, specific event and shall give to the sponsors thereof precedence over unscheduled events in such facilities.

(Code 1950, § 311.4; Ord. No. 64-82, § 1, 2-16-82; Ord. No. 64-94, § 1, 1-31-94; Ord. No. 55-08, § 2, 2-4-08)

Cross references: Park permit fees, § 39-121(10).

DIVISION 3. ASSEMBLY PERMITS*

***Editor's note:** Section 2 of Ord. No. 55-08, adopted Feb. 4, 2008, amended div. 3 in its entirety to read as herein set out. Former div. 3 pertained to similar subject matter and derived from Ord. No. 262-91, adopted Apr. 8, 1991; and Ord. No. 64-94, adopted Jan. 31, 1994.

Sec. 39-74. Policy.

It is the policy of the city that unnecessary restrictions not be placed upon public assemblies which have as their primary purpose the communication of ideas to the public at large.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-75. Scope.

Assemblies may be held in any park provided a permit has been issued in accordance with this division of the Code and rules and regulations of the department, and when the conduct of those participating in assemblies is not likely to damage the area of the park requested, beyond normal wear and tear, or unnecessarily interfere with the use of the park by others.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-76. Definition.

(a) For the purpose of an assembly permit, the term "assembly" shall mean and include demonstrating, picketing, speech making, marching, holding of vigils, and all other like forms of conduct which include the communication or expression of ideas, views or grievances, engaged in by fifty (50) or more persons, the conduct of which has the effect, purpose or propensity to draw a crowd or onlookers.

(b) Assembly includes any event where the assembly is scheduled sufficiently in advance of its occurrence such that the city may lawfully require compliance with certain of the permitting requirements as specified in this division.

(c) Assembly does not include:

- (1) Casual park use which does not normally tend to attract a crowd or onlookers;
- (2) Uses which have an alcohol permit and license; or
- (3) Events which are primarily commercial in nature.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-77. Application.

(a) *Permit application:* Applications for assembly permits shall be made to the manager of parks and recreation or the manager's designee and shall contain such information as required by the manager of parks and recreation.

(b) *Application time:* Applications for an assembly permit shall be made pursuant to the manager's schedule for accepting similar permits for park usage unless a different time period is specified because the mayor has declared a specific event an extraordinary event.

(c) *Form:* The application shall be on a form provided by the city and shall specify the following:

- (1) Names and addresses: The name, address and telephone number of the applicant, the person chiefly responsible for the conduct of the event, and the sponsoring organization and its chief officer;
- (2) Time: The date, place and time of the event, including approximate times for assembly and disbanding;
- (3) Alternatives: Alternative sites or times which may be acceptable to the applicant;
- (4) Participants and spectators: An estimate of the approximate number of persons, animals, and/or vehicles which will participate in the event including the nature of any sound amplification devices.
- (5) Public health facilities: The number and location of portable sanitation facilities and other equipment or services proposed by the applicant to meet public health or safety concerns or legal requirements;
- (6) Monitors: The number of persons whom the applicant will have at the event to monitor or facilitate the event and to provide spectator or participant control and direction;
- (7) Emergency medical facilities: Arrangements for first aid or other emergency medical services;
- (8) The nature of the activities planned; and
- (9) Special requirements: Any special or unusual requirements of the event;

(d) The applicant must affirmatively request that its proposed scheduled event be treated as an assembly, as that term is defined in section 39-76 of this division, instead of any other type of scheduled event, such as a commercial event, at the time of application and shall also specify the basis for the assembly permit request in its application.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-78. Assembly permit.

(a) *Processing:* Applications for assembly permits shall be processed in accordance with the

provisions of this division and as provided for in rules and regulations. Historic usage scheduled events and assemblies, where the same applicant has been granted use of a particular park at a particular date, time and place for more than two (2) consecutive years, shall have priority for that park for that date, time and place.

(b) *Assembly determination:* Upon receipt of any application for an assembly the manager shall, within three (3) working days of receipt of a permit application requesting an assembly permit, or such shorter time as may be necessary to allow the proposed assembly to proceed, review the application and determine, in writing, whether the proposed event is an assembly as defined in section 39-76 of this article.

(c) *Standards for issuance:* Upon determination that the event is an assembly and complies with applicable ordinances and rules and regulations, the manager shall grant an assembly permit if the department finds that:

(1) The application for permit (including any required attachments and submissions) is fully completed, executed and contains no material falsehood or misrepresentation;

(2) The park location requested has not been reserved for any other use at the day and hour requested in the application, including without limitation previously planned or contracted for programs organized and conducted by the department, the city, the state or any other governmental agency;

(3) The scheduled event will not substantially interfere with: any other scheduled event, any other event for which a permit under this chapter has already been granted, or the providing of city services.

(d) *Approval or denial.* Not more than seven (7) working days after receipt of a fully completed application for a permit for an assembly, the manager shall either issue or deny the permit, and shall notify, in writing, the applicant of such issuance or denial. If, within that time period, the manager fails to notify the applicant of the denial of the permit, the permit shall be deemed to have been issued.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-79. Permit revocation for fraud.

The manager may revoke any permit issued pursuant to this division if the manager determines that any required information submitted by the applicant was materially incorrect or fraudulently provided.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-80. Unlawful to violate terms of permit, revocation for cause, notice to cure.

(a) *Notice to cure:* If the manager or any sworn law enforcement officer determines that the conditions of any permit issued pursuant to this division are being violated, notice shall be given to the applicant, sponsor or designated organizer's representative of the scheduled event to cure the violation.

(b) *Failure to cure:* It is unlawful for the applicant, sponsor or on site organizer's representative of an authorized scheduled event to fail to take reasonable steps to promptly cure any notice of violation of this chapter.

(c) *Clear and present danger:* If a sworn law enforcement officer determines, after consultation with the chief of police or the chief's designee, that any failure by the applicant, sponsor or designated organizer's representative to cure a violation of this article creates the clear and

present danger of immediate significant harm to life, public safety or property which cannot be reasonably mitigated by increased public safety enforcement and which, on balance, outweighs the constitutionally protected rights of the organizers or participants in the scheduled event, the applicant, sponsor or on site organizer's representative of the scheduled event shall be promptly notified that the permit is revoked and that the scheduled event must immediately cease and desist.

(d) *Violation of cease and desist order:* If a permit is revoked as specified in subsection (c) of this section, it shall be unlawful for any person to fail to obey the order to cease and desist from illegal activities.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-81. Appeals, assembly permits:

(a) *Decisions appealable:* Applicants for or sponsors of assemblies may appeal the following permit decisions of the manager:

- (1) The denial of a permit application;
- (2) Any conditions imposed upon the permit.
- (3) Determination that the proposed scheduled event is not an assembly pursuant to [subsection] 39-77(b).
- (4) Revocation of a permit.

(b) *Process:* The city acknowledges an obligation to process appeals regarding assembly permits so as to not unreasonably inhibit or unlawfully burden constitutionally protected activities. In the event that an applicant for an assembly permit requires even more expeditious processing of an appeal, upon the request of the applicant, the city attorney may advise the manager to make immediate consideration of the appeal.

(c) *Procedure:* Appeals shall be made subject to the following procedure:

- (1) Appeals shall be filed with the manager within five (5) business days after the manager notifies the applicant or sponsor of the decision from which an appeal is taken;
- (2) Notices shall be deemed to be effective on the earliest of:
 - a. On the date on which the applicant or sponsor is personally delivered a copy of the decision, or
 - b. If the decision is mailed, three (3) days after the date of mailing, or
 - c. If notification is sent by electronic facsimile or mail to the applicant, on the date of transmission, provided that a confirmation of the completed transmission is sent on the same day to the applicant via first class United States mail, postage prepaid;
- (3) The appeal shall be in writing and specify the grounds for the appeal;
- (4) The manager shall make a decision on the appeal within five (5) business days from the receipt of the appeal.

(d) *Expedition of appeals:* If the applicant notifies the manager and demonstrates that the times specified above for the appeals process would unreasonably burden the applicant, the manager shall shorten the times so the applicant may receive the final decision sufficiently in advance of the proposed assembly.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-82. Review of the manager's decision.

The decision of the manager shall be reviewable under Rule 106(a)(4) of the Colorado Rules of Civil Procedure providing for the review of quasi-judicial determinations.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-83. Designated park areas.

The parks and park areas in each park within which an assembly may not be conducted shall be designated and a record of such designation shall be kept at the manager's office and at the permit section of the department. The manager shall set forth the basis and factors for excepting parks or park areas from availability for assemblies. The manager shall consider the following factors in determining where assemblies may not be held:

- (1) Whether the area has been established for a special use (for example: athletic fields, tennis courts, golf courses, children's play areas and any area which requires a fee for entering or using).
- (2) Whether the area is used as a public pathway within the park.
- (3) Whether the use of the area for assemblies would unduly disturb the quiet and peace of an adjacent residential neighborhood.
- (4) Whether use of the area for assemblies would damage or destroy any structure, tree, grass, plant or animal habitat indigenous to the park area.
- (5) Whether the area is under renovation, repair, or has been damaged and needs time to recover.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-84. Numerical limitations.

For the purpose of protecting the parks and the health, safety and welfare of the public and park users, the manager may limit the number of individuals who shall be permitted to participate in any assembly in any park or park area at any one (1) time and shall set forth the basis and factors for each such limitation so established.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-85. Short notice activities.

(a) *Notification:* To the extent reasonably possible, considering the nature of the short notice activity, the organizer or sponsor of such activity shall notify the manager of the short notice activity specified in this section.

(b) *Permit issuance:* The manager shall promptly issue a permit for the short notice activity unless the manager finds, in writing, that the proposed activity creates an immediate, clear and present danger to public health, safety or welfare or violates ordinances or published rules and regulations.

(c) *Unpermitted short notice activities:* If it is not reasonably possible to obtain a permit in advance of a short notice activity, no permit shall be required provided that the prohibitions of

subsection (b) of this section are not violated.

(Ord. No. 55-08, § 2, 2-4-08)

DIVISION 4. EXTRAORDINARY EVENTS

Sec. 39-86. Definition.

Extraordinary event shall mean a time period during which a large-scale special event of national or international significance is occurring within the City and County of Denver and for which a large number of permit applicants are anticipated.

(Ord. No. 55-08, § 2, 2-4-08)

Sec. 39-87. Conflicting applications for extraordinary events.

(a) *Conflict priority evaluation:* When applications for permits for two or more scheduled events are received on the same date for the same date, time and location during the period of, and within the area designated for, an extraordinary event, the mayor or the mayor's designee shall issue a permit, subject to the other provisions of this chapter, based on the following order of priorities:

(1) Historic usage scheduled events where the same applicant has been granted use of a particular park at a particular date, time, and place for more than five (5) consecutive years; and

(2) If more than one application for an assembly is received for the same day, time and location the first application in time shall receive priority. All applications received on or before the first date applications may be processed in accordance with subsection 39-77 (b) shall be deemed to be received at the same time. If submitted at that same time, the mayor or the mayor's designee shall conduct a lottery to determine priority.

(b) *Consideration for unsuccessful applicant:* After granting the successful applicant's request for the conflicting time, place, and date, the mayor or the mayor's designee shall authorize any unsuccessful applicant for the same time and place to use an available park at another suitable time, place, date.

(Ord. No. 55-08, § 2, 2-4-08)

Secs. 39-88--39-90. Reserved.