

MEMORANDUM

To: Cliff Moore, City Manager

From: Joan Davenport, Director of Community Development
Colleda Monick, Community Development Specialist
Sara Watkins, Senior Assistant City Attorney

Date: June 19, 2019

Subject: City Council Briefing on Cruise Events and Insurance Requirements

A concern was expressed at a recent City Council meeting by a Cruise Event organizer with some questions and frustrations related to the cost of event insurance. Attached are the Yakima Municipal Code sections that address cruise events and the insurance regulations (YMC 9.25; YMC 9.70.160 and YMC 9.70.170).

As you will read in YMC 9.25(C) that Cruise events are deemed "Special Events" for the purpose of permitting and insurance regulations. The Municipal Code was amended in 2013 related to cruising. The Municipal Code was amended in 2012 and 2015 with respect to Special events. No specific changes have been made related to insurance requirements in recent years.

If the Council wishes to review insurance requirements of Cruising or other Special Events, please direct a meeting to be set to include the Legal Department and our insurance carrier to advise the City of appropriate insurance trends and risks associated with special events.

Chapter 9.25 CRUISING CONTROL

Sections:

[9.25.010](#) Cruising prohibited.

[9.25.020](#) Cruising permitted—Open cruising event.

9.25.010 Cruising prohibited.

A. No person shall drive or permit a motor vehicle under that person's care, custody or control to be driven past a traffic-control point more than two times in the same direction of travel within a two-hour period in or around a posted no cruising area so as to contribute to traffic congestion, obstruction of streets, sidewalks or parking lots, impediment of access to shops, restaurants or other buildings open to the public, or interference with the use of property or the conduct of business in the area adjacent thereto, except as provided in YMC [9.25.020](#).

B. The police chief or his designee shall determine when an area has become so congested by traffic as to present a danger of traffic congestion, obstruction of streets, sidewalks or parking lots, impediment of access to shops, restaurants or other buildings open to the public, or interference with the use of property or conduct of business in the area adjacent thereto or that emergency vehicles cannot respond in that area within a reasonable period of time. The police chief or his designee shall then direct that the no cruising signs shall be erected or installed and maintained until the congestion has lessened to an appreciable degree. The chief of police may declare all or a portion of any street or way open to the public to be a no cruising area when:

1. Traffic congestion has slowed average vehicle speed to less than two-thirds the posted speed limit and the congestion is caused in whole or in substantial part by cruising; and
2. The congestion significantly interferes with passage of vehicles being driven to and from locations within the area; or
3. In areas which contain transit routes, buses or trolleys are or would be substantially delayed; or
4. The congestion is likely to prevent or substantially delay emergency vehicles from responding to locations within the area, or from passing through the area.

The designation of a street or way open to the public as a no cruising area shall remain in effect for a period of four hours, unless withdrawn earlier or extended for additional four-hour periods by the chief of police.

C. At every point where a public street becomes or provides ingress to a no cruising area, there shall be posted a sign which reads as follows: "NO CRUISING AREA." No person shall drive or permit a motor vehicle under that person's care, custody or control to be driven past a traffic-control point more than two times in the same direction of travel within a two-hour period in or around this area.

D. A "traffic-control point" as used in this section means any point or points established by the police department for the purpose of monitoring cruising within a designated no cruising area.

E. No violation shall occur except upon the third passage of a motor vehicle by the same traffic-control point in the same direction of travel within the aforementioned two-hour period.

F. This section shall not apply to in-service emergency vehicles, police vehicles, taxicabs for hire, buses, trolleys and other vehicles being driven for business purposes.

G. Penalty. A violation of this chapter shall be an infraction subject to a penalty of one hundred dollars. (Ord. 2005-20 § 1, 2005: Ord. 94-10 § 1, 1994).

9.25.020 Cruising permitted—Open cruising event.

A. Cruising shall be permitted by the public during an open cruising event on Yakima Avenue from six p.m. to ten p.m. on Saturday evenings designated pursuant to resolution adopted by the city council from time to time.

B. For calendar year 2013, the following dates are designated open cruising events: Saturday, June 22, 2013; Saturday, July 20, 2013; and Saturday, September 14, 2013.

C. For any additional open cruising event or events to take place in 2013, and for any designation of open cruising events occurring in subsequent years, such designation shall be made pursuant to resolutions adopted from time to time by the city council. Such additional open cruising events occurring in 2013 or in subsequent years shall be deemed special events subject to the provisions of Chapter 9.70 YMC.

D. Following adoption of any resolution designating an open cruising event on Yakima Avenue, the designated open cruising event dates, with identification of the resolution designating such event, shall be posted on the city web site, and may be published in any other manner deemed appropriate. (Ord. 2013-018 § 1 (Exh. A), 2013: Ord. 2010-23 § 1, 2010: Ord. 2009-16 § 1, 2009: Ord. 2008-38 § 1, 2008: Ord. 2008-25 § 1,

2008: Ord. 2007-38 § 1, 2007: Ord. 2007-23 § 1, 2007: Ord. 2006-14 § 1, 2006: Ord. 2005-76 § 1, 2005: Ord. 2005-20 § 2, 2005).

9.70.160 Insurance required to conduct special event.

A. In addition to any other requirement(s) imposed by this chapter, for any parade or special event involving participation of persons in games or races involving physical effort; or involving the use of live animals, wild or domestic; or involving the use of vehicles (except wheelchairs); or provision or sale of beverages or food for human consumption; or use of alcoholic beverages, the applicant shall have the following minimum insurance requirements:

1. Commercial General Liability (Occurrence Form). One million dollars per occurrence/two million dollars aggregate combined single limit liability for bodily injury and property damage. If other than the standard CG 00 01 form is used, such as a special events policy, the policy shall be furnished to the city attorney for review and may be rejected based upon the specified policy exclusions. If animals are included in the event, no animal exclusion will be allowed or approved. The policy shall not contain a separate assault and battery exclusion. The policy shall not exclude coverage for participants in the event.
2. If sponsor owned or rented vehicles are involved in the event: automobile liability at one million dollars per occurrence combined single limit bodily injury and property damage. This includes coverage for any owned, hired or non-owned vehicles. If the sponsor of the event does not own the vehicles that will be used in the event, then only hired and non-owned auto liability may be required, which can be included on the commercial general liability policy.
3. If liquor is served at the event: liquor liability coverage shall be required at a one-million-dollar liability limit. If there is no charge for the liquor being served and the policy provides host liquor liability coverage, then this requirement may be waived with the economic development manager's approval.
4. The applicant shall provide a certificate of insurance as proof of the insurance required above that clearly states who the provider is, the amount of coverage, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of the permit. The certificate of liability insurance policy shall name the city of Yakima, its elected officials, officers, agents, employees and volunteers as additional insureds, and shall contain a clause that the insurer will not

cancel the insurance without first giving the city prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the state of Washington, or an A-VII rated approved surplus lines carrier. If the city is damaged by the failure of the applicant to maintain the above insurance or to notify the city, then the applicant shall bear all costs attributable thereto. An expiration, cancellation, or revocation of the insurance policy or withdrawal of the insurer from the insurance policy automatically suspends the permit issued to the applicant until a new insurance policy or reinstatement notice has been filed and approved as provided in this section.

B. No later than thirty days prior to the event, unless the economic development manager for good cause modifies the filing requirements, the applicant shall file with the economic development manager evidence of liability insurance coverage, for review by the city attorney. A complete copy of the policy will be furnished to the city attorney if requested.

C. The applicant shall provide a signed statement that the applicant/responsible party shall pay the costs of services which the city of Yakima is required to perform by reason of management of street use of the parade or special event, including but not limited to cleanup. Upon completion of the parade or special event, the economic development manager shall compile a statement of account which shall be mailed to the applicant/responsible party, payable within thirty days.

D. Waiver, Reduction or Increase of Required Limits. If the special event is of a demonstrated high or low risk category, according to recognized insurance and risk management standards, the economic development manager, on the advice of the city attorney or city's risk manager, may authorize a greater or lesser amount of coverage than otherwise required, or may require a particular type of insurance coverage different from that specified in this section.

E. As a further condition of the issuance of any permit, the applicant shall defend, indemnify, and hold harmless the city, its elected officials, officers, agents, employees and volunteers from and against any and all claims, causes of action, damages, losses, and expenses of any kind or nature whatsoever, including but not limited to attorney's fees and court cost, arising out of, relating to or resulting from the parade or special event and/or the application for the parade or special event.

F. The indemnification requirements set forth in this section shall not be construed to apply to events permitted under this chapter involving expressive activity which enjoys protection under the United States or Washington Constitutions except that sponsors of such events shall be required to redesign or reschedule the

permitted event to respond to specific risks, hazards and dangers to the public health and safety identified by the director of community and economic development as reasonably foreseeable consequences of the event.

G. The insurance required by this section shall encompass all liability insurance requirements imposed for other permits required under other sections of this chapter and is to be provided for the benefit of the city and not as a duty, express or implied, to provide insurance protection for spectators or participants. (Ord. 2018-009 § 1 (part), 2018: Ord. 2015-043 § 1 (Exh. A) (part), 2015: Ord. 2013-043 § 1 (Exh. A), 2013: Ord. 2013-041 § 2 (part), 2013: Ord. 2012-61 § 2 (Exh. A) (part), 2012).

9.70.170 Waiver of insurance requirements.

(a) Except for special events where the sale of alcoholic beverages is authorized, the insurance requirements of YMC [9.70.160](#) may be waived. In making the determination of whether to waive insurance, the city shall consider the following factors:

- (1) Whether it is an expressive activity special event governed by YMC [9.70.220](#);
- (2) Whether it is objectively impossible to obtain insurance coverage;
- (3) Whether the special event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks, or pyrotechnics; or
- (4) Whether a fee or donation is charged or required as a condition of admission or participation in the special event.

(b) To claim that it is objectively impossible to obtain insurance coverage pursuant to this section, the applicant shall submit a statement from at least two independent licensed insurance brokers demonstrating the insurance is unavailable in the marketplace.

(c) Even though insurance is waived, the city may require the event organizer of a special event to defend, indemnify, and hold harmless the city from any claim or liability arising from the special event. (Ord. 2018-009 § 1 (part), 2018: Ord. 2015-043 § 1 (Exh. A) (part), 2015: Ord. 2013-041 § 2 (part), 2013: Ord. 2012-61 § 2 (Exh. A) (part), 2012).