

CITY OF MADISON
CITY ATTORNEY'S OFFICE
Room 401, CCB
266-4511

MEMORANDUM

TO: Common Council
FROM: Lara Mainella, Assistant City Attorney
DATE: April 6, 2020

RE: Order Nos. 14 and 15: A resolution to allow for refund of certain Street Use Permits granted or issued, and waive deadline for street use permit decision-making under Madison General Ordinance Section 10.056

(Legistar File # 60113)

The Mayor's Emergency Order dated March 26, 2020, item 14, is as follows:

14. The Parks Department is authorized to refund all permit fees and other associated fees under Madison General Ordinance Section 10.056 that have been pre-paid for Street Use Events if the event is cancelled due to the emergency actions.

And, Emergency Order item 15, states as follows:

15. The deadline regarding the timeline to issue or deny street use permits imposed under Madison General Ordinance Section 10.056 (5) (f) is hereby waived.

BACKGROUND

Special events to be held on a City street or sidewalk require a Street Use Permit under MGO 10.056. By ordinance, such permits include application fees and a variety of other fees, some of which are pre-paid, and the ordinance is silent as to the ability to refund such fees. Additionally, Street Use Permits can only be approved by the Street Use Staff Commission, a body made up of City Staff that conducts business under the open meetings laws. By ordinance, decisions on street use applications must be made within 21 days. The SUSC is not holding regular meetings now, due to the recently adopted ordinance limiting such meetings.

WHY THIS ORDER IS NEEDED

This order is needed to authorize refunds for special events that are voluntarily canceled or canceled by effect of the Governor's Order, public health orders, or by order of the City under the authority in MGO 10.056(11)(a). Refunds are appropriate considering the financial hardship caused by the emergency on businesses and nonprofits who normally sponsor these events. This order is also needed to waive the 21-day deadline for decisions on pending street use permit applications, because the SUSC cannot meet during this time.

HOW THE RESOLUTION WILL BE IMPLEMENTED

Parks staff will process refunds through Accela and existing Finance Department procedures. Parks staff will inform event organizers with pending applications of the delay in deciding their applications and will keep them informed of the status.

ACTIONS TAKEN THUS FAR PURSUANT TO THIS ORDER

To date the Parks Division has issued refunds for 16 street use events in the amount of \$2,100, and has advised event organizers submitting street use event applications for later in 2020, that pre-paid event fees and charges will be refunded if the event is cancelled due to the COVID-19 virus.

The Parks Division is currently holding 6 pending street use permit applications that require review and action by the Street Use Staff Commission.

FISCAL IMPACT

From the fiscal note: Street Use permit fees collected as of March 26, 2020 for the period of January through May 2020 total \$5,700. To date \$2,100 has been refunded, with additional potential refunds of \$3,050. No additional permits are being issued for April 2020.

There is no fiscal impact from waiving the deadline regarding the timeline to issue or deny street use permits.

A budget amendment is not proposed at this time. The Finance Department is closely monitoring the 2020 budget and subsequent budget amendment resolutions to fully fund the response efforts are anticipated in the future.

The following portion of the fiscal note does not relate to refunds. The figures below include some, but not all, fees collected for 2019 Street Use events, some of which are collected after the fact for services rendered. The portion of such fees for services rendered would not be collected and thus not subject to refund, if events are cancelled:

In 2019, Street Use permit fees [*including fees for services rendered*] for the months of May - December ranged from \$49,843 in June to \$500 in December for a total of \$178,533. The average monthly amount for the period of May through August was \$37,000.