

ORDINANCE NO. 145-81

AMENDMENT TO ORDINANCE NUMBER 85

AN ORDINANCE relating to regulating and licensing music festivals, establishing licensing procedures, and prescribing offenses and penalties.

SECTION 1. PREAMBLE

The Board of Mason County Commissioners finds and declares that it is necessary for the protection and preservation of the public peace, health, safety, morals, and welfare, that certain rules, regulations, and conditions be established for music festivals and further that there is a danger to the people attending or taking part in such music festivals if measures affecting the public peace, health, safety, morals, and welfare are not adequately provided for, and further that it is necessary to pass under the police power of the county an ordinance to regulate and license the holding of such music festivals.

SECTION 2. DEFINITION

As used in this chapter, "Music Festival" shall mean any outdoor musical entertainment, amusement and/or assembly, in operation for five (5) or more hours during a single day or a total of ten (10) or more hours on two or more consecutive days, which attracts or which the Board of Mason County Commissioners (hereinafter referred to as the "Board") has reason to believe will attract two hundred (200) or more persons, of which the presentation of outdoor, live or recorded musical entertainment is or will be a major activity, and to which the public generally may gain admission with or without the payment of an admission fee.

Provided, that this definition shall not apply to any regularly established permanent place or worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established places of assembly for assemblies which do not exceed by more than two hundred fifty people the maximum seating capacity of the structure where the assembly is held: Provided, further, that this definition shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed under other laws or regulations of the state.

SECTION 3. PERMIT REQUIRED:

No person or group shall: 1) allow, conduct, hold, maintain, permit or participate in a music festival, without the limits of incorporated cities or towns in Mason County, unless a valid permit has been obtained for the operation of such music festival, or 2) encourage, promote or cause to be advertised a music festival proposed to be located without the limits of incorporated cities or towns in Mason County unless preliminary approval, as herein provided, has been granted. One such permit shall be required for each music festival and such permit shall be effective for as many consecutive days as such music festival shall be in operation, or where such music permit shall be effective only for a single day.

SECTION 4. APPLICATION, FEE REQUIRED:

Application for music festival permits herein shall be in writing and filed with the Clerk of the Board on forms provided by the Mason County Auditor. Said application shall be filed not less than ninety

(90) or more than one hundred and eighty (180) days prior to the first day upon which such music festival is to be, or may be held and shall be accompanied with a receipt showing payment to the Mason County Auditor of a permit fee in the amount of five thousand dollars (\$5,000.00). Said application shall include: 1) the name of the applicant on whose behalf said application is made (hereinafter referred to as the "Applicant"), and a statement by the applicant that the person filing said application on behalf of the named applicant is authorized so to file; 2) the type of business organization of said applicant 3) the names and addresses of all persons having a ten percent (10%) or more proprietary interest in said organization, and the names, addresses and telephone numbers of any and all officers of said organization; 4) the principal place of business of said organization; 5) a legal description of the land to be occupied, the address of the owner thereof, and a verified consent by said owner to the issuance of a permit herein if said owner be different than the applicant; 6) the date of the first day and the number of consecutive days such music festival is proposed to be held; 7) a statement that the applicant will abide by the provisions of this chapter and the laws of the State of Washington for the protection of the public peace, health, safety, morals, and welfare; 8) the signature of the person so authorized to sign on behalf of the named applicant; and 9) the verification by such signer of the truth of the matters contained in such application under the pains and penalties of perjury. The application forms may include such other provisions consistent with this chapter as the Board shall require.

SECTION 5. SUBMISSION OF PLANS:

Each application for a music festival permit filed with the Clerk of the Board shall be accompanied by specific plans for compliance with the rules and regulations of any governmental or quasi-governmental body, the approval of which is required herein prior to the granting of any music festival permit. Each application shall also contain proof of service of such plans upon the above-mentioned governmental or quasi-governmental bodies.

SECTION 6. PRELIMINARY APPROVAL: REFUND UPON DENIAL:

Thirty (30) days after the filing of application and plans, the Board shall grant or deny preliminary approval thereof, and notice of approval or denial shall be served personally or by certified mail on the applicant. Any notice of denial shall state the rules, regulations, conditions and/or laws upon which denial is based, and the nature of the noncompliance by the applicant therewith. Within five (5) days after service of said notice, the applicant shall remedy such noncompliance, and upon the failure of the applicant so to do, such denial shall be final and conclusive. No permit shall be issued thereafter to said applicant unless new application be made, and said applicant otherwise complies with the rules, regulations and conditions of this chapter. Such final denial shall entitle the applicant to apply for and receive a refund of the unused portion of the application fee.

SECTION 7. PERMITS: ISSUANCE THEREOF: CONDITIONS:

Permits shall be granted providing the following conditions as enumerated hereinbelow are met by the applicant:

Condition 1 - Health Standards:

The Board shall have received the written approval of the Mason County Health Department indicating that the applicant has complied with the applicable health requirements of said department.

Condition 2 - Fire Prevention Standards:

The Board shall have received the written approval of the County Fire Marshal and the Fire Protection District in which the proposed music festival is to be located, from the State Department of Natural Resources if there is no Fire Protection District covering the proposed site, or from the United States Forest Service.

Condition 3 - Bond; Indemnification:

The applicant shall have on deposit with the Mason County Treasurer a cash or surety bond in the amount applicable as hereinbelow stated, to save and protect the county from any and all expense and/or damage arising out of the operation of the applicant's music festival or caused by vehicles, employees, participants and/or patrons of or at such music festival. The bond shall be used to: 1) pay all charges and losses of the county for damage to the streets, pavements, bridges, road signs and other county property; 2) pay all expenses incurred by the county in restoring the land upon which such music festival is held to a safe and sanitary condition; and 3) pay any extraordinary law enforcement costs incurred by the county which result from or arise out of the operation of such music festival. The amount of such bond shall be determined on the basis of the number of persons in attendance or reasonably expected to be in attendance at any music festival, as follows:

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|---------------------------------|-------------|
| 0 to 10,000 persons: | \$25,000.00 |
| 10,000 to 20,000 persons: | \$35,000.00 |
| 20,000 to 30,000 persons: | \$50,000.00 |
| each additional 10,000 persons: | \$10,000.00 |

The bond deposited shall be returned to the applicant as hereinafter provided when the Mason County Auditor certifies to the Mason County Treasurer that no charge for damage or loss may be made against said deposit, or that such charge is less than the cash amount of said deposit and the balance thereof should be returned. Further, the applicant shall be required to furnish evidence of a liability insurance policy providing for a minimum of \$300,000 bodily injury coverage per person; \$500,000 bodily injury coverage per occurrence; \$1,000,000 property damage coverage to include fire; and naming Mason County as an additional insured.

Condition 4 - Public Safety; Expenses of Enforcement:

No permit shall be granted herein unless the applicant complies with and agrees to abide by the following conditions:

1) Written contracts for the employment of peace officers of the State of Washington during the hours of operation of such music festival shall be submitted not less than thirty (30) days prior to the first day such music festival is to be in operation, and each contract shall be signed by the applicant and the peace officer so to be employed.

Each such contract to be approved by the Sheriff of Mason County.

2) One such peace officer shall be employed primarily for the purpose of crowd control for every one hundred (100) persons expected or reasonably expected by the Board to be in attendance at any time during the music festival, and one such peace officer shall be employed primarily for the purpose of traffic control for every two hundred (200) such persons.

3) The peace officers herein stated shall be recruited by and employed by the applicant to enforce the provisions of this chapter and of the laws of the State of Washington and to protect and preserve the public peace, health, safety, morals and welfare at such music festivals, and if in the opinion of the Board it is necessary to secure the services of additional peace officers for such enforcement, all expenses for such services shall be borne by the applicant.

As used in this ordinance a peace officer is a person who has been, or is presently employed as a peace officer within the State of Washington, or one who has had adequate training in law enforcement and can produce proof of such training to the satisfaction of the Sheriff of Mason County.

4) All peace officers to be employed for traffic control and/or to protect and preserve the public peace, health, safety, morals, and welfare of said activities shall be under the direction of the Sheriff of Mason County and/or his specified designated officers.

Condition 5 - Parking Areas:

No permit shall be granted herein unless the Board has the written approval of the Mason County Engineer indicating that upon the premises for which a permit application has been made, the applicant has provided parking areas enclosed by physical barriers. Such parking areas shall be constructed so as to allow the adequate ingress and egress of any vehicle at any time and to provide parking space for one vehicle for every four persons expected or reasonably expected by the Board to be in attendance at such music festival: PROVIDED, that no vehicle shall be allowed in any other area of the premises excepting emergency vehicles and vehicles necessary for the supply and maintenance of any business or operation offering goods or services upon the premises to the patrons of such music festival: PROVIDED FURTHER, that should busses be used to transport the public between any location within Mason County and said music festival, it shall be shown that public parking or parking as described hereinabove is available at any such location.

Condition 6 - Free Access to Premises; Prior Consent Thereto:

All peace officers of the State of Washington, all public health and fire control officers of Mason County, each member of the Board, the Prosecuting Attorney, and each of his deputies, any member or employee of any other governmental or quasi-governmental body, the approval of which body is required herein, shall have free access at all times to come upon the premises for which a music festival permit has been or may be granted for the purpose of inspection and supervision to enforce the rules, regulations and conditions under which said permit is or may be granted and no such permit shall be granted unless the applicant therefor shall so consent in writing upon the application for such permit.

Condition 7 - Light:

No permit shall be granted herein, unless ten (10) days prior to the first day of operation of any music festival to be conducted during non-daylight hours, there shall be installed upon the premises, for which application herein has been made, light poles, one end of which shall be firmly set not less than five (5) feet into the ground and shall measure not less than six (6) inches in diameter at the top. There shall be one such pole for every forty thousand (40,000) square feet of such premises, excluding any area upon which any building or structure is situated, and no such pole shall be located at a distance of more than two hundred (200) feet from any other such pole. There shall be affixed to each such pole, at a height above the ground of not less than twenty (20) feet or more than thirty (30) feet, an electric light or lights having a rating of not less than one hundred and fifty (150) watt incandescent or seventy-five (75) watt high intensity discharge, and such lights shall be of an intensity to provide a minimum intensity of 0.1 foot candles in all areas of the premises exclusive of any area upon which any building or structure is situated: PROVIDED, that the requirements for the number of poles and lights and light rating shall be waived, except in the areas approved for parking, and a permit shall be granted if the premises is lighted so as to provide a minimum light intensity of 0.1 foot candles in all areas of the premises on which the above requirements apply. Such lights hereinabove referred to shall be in operation each day a music festival is in operation from one hour after sunset to 2:00 a.m., of the following day. All buildings, halls, rooms, pavillions, or other places situated upon the premises for which an application for a music festival permit is made shall at all times, while such music festival is open to the public, be well lighted.

Condition 8 - Preparations

"All preparations required to be made by the provisions of this chapter on the music festival site shall be completed thirty (30) days prior to the first day scheduled for the festival. Upon such date or such earlier date when all preparations have been completed, the promoter shall notify the issuing authority thereof, and the issuing authority shall make an inspection of the festival site to determine if such preparations are in reasonable full compliance with plans submitted pursuant to Section 3. If a material violation exists, the issuing authority shall move to revoke the music festival permit in the manner provided by Section 11."

SECTION 8. HOURS OF OPERATION:

No music festival for which a permit has been granted herein shall be conducted between the hours of midnight and 10:00 a.m., and no person or persons shall be allowed to remain upon the premises of such music festival between the hours of 2:00 a.m., and 8:00 a.m., other than those persons hereinbefore mentioned in Section 2 (6) and Section 7, Conditions 4 and 6.

SECTION 9. APPLICANT TO BE TWENTY-ONE:

No permit shall be issued to any person under twenty-one (21) years of age.

SECTION 10. POSTING:

Sections 11 through 18 herein shall be in full force and effect and posted at all times in a conspicuous place where any music festival is being conducted.

SECTION 11. STATEMENT OF RIGHT TO REVOKE PERMIT:

Every permit issued under the provisions of this chapter shall state that the right of the Board or Sheriff to revoke such permit is a consideration of its issuance.

SECTION 12. GROUNDS FOR REVOCATION:

Any permit granted herein to conduct a music festival shall be summarily revoked by the Board or Sheriff when it is determined that by reason of disaster, public calamity or other emergency the public peace, health, safety, morals or welfare can only be preserved and protected by such revocation, and notice of any meeting of the Board for such purpose shall be given to the applicant. Any permit granted herein to conduct a music festival may otherwise be revoked by the Board or Sheriff for any violation of this chapter or the laws of the State of Washington after a hearing held upon not less than three (3) days notice served upon the applicant personally or by certified mail. The action of the Board or Sheriff in revoking any permit herein shall be final and conclusive.

SECTION 13. REVOCATION NOT EXCLUSIVE PENALTY:

The revocation of any permit granted herein shall not preclude the imposition of further penalties as provided for in this chapter and the laws of the State of Washington but shall be considered merely as a part of the said penalties imposed for violation of the rules, regulations and conditions herein stated and the laws of the State of Washington.

SECTION 14. MINORS:

No person under the age of eighteen (18) years shall be permitted to attend any music festival without the escort of his or her parent or legal guardian and proof of the conditions hereinabove stated shall be provided upon request.

SECTION 15. INTOXICATING LIQUOR AND DRUGS PROHIBITED:

No applicant to whom a music festival permit has been granted shall, during the time said music festival is in operation, permit or allow any person to bring upon the premises of said music festival, any intoxicating liquor, or any illegal drug as defined by law, or permit or allow intoxicating liquor or any illegal drug as defined by law to be consumed on the premises, and no person shall take or carry onto said premises, or drink thereon any intoxicating liquor or use any illegal drug as defined by law.

SECTION 16. FIRE ARMS:

No fire arms are allowed on, or around the area of the music festival, other than those carried by authorized and commissioned peace officers.

SECTION 17. DISTANCE FROM HABITATION:

No music festival shall be operated in a location which is closer than one thousand (1,000) yards from any schoolhouse, church, or any house, residence or other human habitation.

SECTION 18. PERMIT: POSTING: NONTRANSFERABILITY:

Any permit granted herein shall be posted in a conspicuous place; no such permit shall be transferable or assignable without the consent of the Board, and the permit shall be valid only for the time and place specified therein.

SECTION 19. PENALTIES:

Any person who shall violate any provision of this chapter, or who shall, having obtained a permit herein, wilfully fail to comply with the rules, regulations, and conditions herein, or who shall aid or abet such a violation or failure to comply, shall be deemed guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand (\$1,000.00) dollars, or be imprisoned in the Mason County Jail for not more than one (1) year, or both.

SECTION 20. SEVERABILITY:

If any provision of this ordinance, or its application to any person or circumstance, is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION 21.

The provisions of this ordinance are hereby declared necessary for the immediate preservation of the public health, morals, peace and safety of the people of Mason County and that an emergency is hereby declared to exist and the provisions of this ordinance shall go into full force and effect immediately without any other or further hearing hereon.

DATED this 26th day of October, 1981.

BOARD OF MASON COUNTY COMMISSIONERS

Annette S. Mc Lee
Chairman

ATTEST:

Louane Coats
Clerk of the Board

William O. Hunter
Commissioner

APPROVED AS TO FORM:

Ed Johnston
Commissioner

John B. Buehler DPA
Prosecuting Attorney for
Mason County

cc: Cmmrs
Auditor ✓
Sheriff
Health Dept
Engineer
Fire Marshal