

CITY OF SMYRNA

ORDINANCE TO ADOPT CHAPTER 11 “RACING EVENTS” OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA

WHEREAS, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

WHEREAS, the Mayor and Council of the City of Smyrna are charged with the protection of the public health, safety, and welfare; and

WHEREAS, the Mayor and Council wish to provide for the safe and successful operation of both public and private community events taking place in the public sphere; and

WHEREAS, the Mayor and Council now wish to update the City of Smyrna Code of Ordinances regarding the conducting of racing events, Chapter 11, “Racing Events”

NOW, THEREFORE, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendment:

Chapter 11, “Racing Events” of the Code of Ordinances of the City of Smyrna, Georgia is hereby adopted in its entirety as follows:

1.

Chapter 11 – Racing Events

Article I – In General

11-01 Definitions.

11-02 Permit required.

11-03 Exceptions.

Article II – Permit Application, Fees, and Requirements

11-04 Application.

11-05 Submission of application by applicant/authority and responsibilities of the City of Smyrna once application received.

11-06 General considerations regarding approval, denial, or revocation of a racing event permit.

11-07 Notice to city and other officials.

11-08 Permit fees.

11-09 Duties of permittee.

11-10 Public conduct during racing events.

ARTICLE I – IN GENERAL

11-01 Definitions.

- (a) "Racing event" is any organized racing event involving walking, running, or bicycling in or upon any street, sidewalk, park or other public place in the city.
- (b) "Racing event permit" is a permit as required by this chapter.
- (c) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

11-02 Permit required.

- (a) No person shall organize, form, or start any racing event, unless a racing event permit shall have been obtained from the office of the assistant city administrator.
- (b) Racing Event Permit applications will be available at the police department and filed there. The police department will review the permit request, communicate with the appropriate departments and officials, and then make a recommendation to the assistant city administrator for approval or denial.

11-03 Exceptions.

- (a) This chapter shall not apply to:
 - (1) Students going to and from school classes or participating in school-sponsored activities; providing such conduct is under the immediate direction and supervision of the proper school authorities; or
 - (2) A governmental agency acting within the scope of its functions.

ARTICLE II – PERMIT APPLICATION AND REQUIREMENTS

11-04 Application.

- (a) A person seeking issuance of a racing event permit shall file an application with the police department and all applicable forms as provided by the city.
- (b) *Filing Period.* An application for a racing event permit shall be filed not less than 60 days or more than 365 days before the date on which it is proposed to conduct the event. An application for a racing event that does not require road closures shall be filed not less than 3 business days in advance or more than 30 days prior to the event;
- (c) *Contents.* The application for a racing event permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking to conduct the racing event, and a copy of a state issued photo ID;
 - (2) If the racing event is proposed to be conducted for, on behalf of, or by an organization, the name, address, email address, and telephone number of the headquarters of the organization, and of the authorized and responsible heads of that organization;
 - (3) The name, address, email, and telephone number of the person who will be the racing event leader and who will be responsible for its conduct along with a 24-hour contact name and phone number;
 - (4) The date when the racing event is to be conducted;
 - (5) The hours when the racing event will start and terminate;
 - (6) The turn by turn route to be traveled, the starting point and the termination point, selected from a preapproved list of routes provided by the police department;
 - (7) The approximate number of persons who, and animals and vehicles which, will constitute the racing event; the type of animals, and description of the vehicles;
 - (8) A statement as to whether the racing event will occupy all or only a portion of the width of the streets proposed to be traversed;
 - (9) The location by streets of any assembly areas for the racing event;
 - (10) The time at which participants of the racing event will begin to assemble at any assembly area or areas;
 - (11) If the racing event is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file with the office of the city administrator a communication in writing from the person proposing to hold the racing event, authorizing the applicant to apply for the permit on his or her behalf;
 - (12) An executed release and indemnity form.

(13) Agreement to secure insurance and provide proof thereof as outlined below.

(14) Agreement to secure approval of an Emergency Medical Services plan from the Emergency Medical Director in the Office of the Fire Chief of the Smyrna Fire Department, as outlined below.

(d) Requirements. Any racing event must meet the following requirements, as applicable:

- (1) All road races must employ a professional road race director/coordinator;
- (2) All road race/walk routes need to be selected from preapproved routes supplied by the Smyrna Police Department;
- (3) All events must provide for an approved Emergency Medical Services plan, as outlined below;
- (4) All applicants must execute an approved release and indemnity agreement;
- (5) All applicants must secure and provide proof of liability insurance;
- (6) All cones and barricades must be provided by the organization requesting the permit. The number of barricades required for routes will be determined by the police department;
- (7) Event organizers must provide for after-event cleanup, as outlined below;
- (8) All racing event participants must be off the roadway by 10:00 a.m.;
- (9) No events will be allowed on the following days: Memorial Day; July 2 through July 6; first Saturday in August; September 11; December 22 through 27; weekdays during non-holiday work days, and Sundays;
- (10) Only one event per day, and only one event in the same month;
- (11) No type of voice amplification will be allowed in residential areas;
- (12) If an approved event changes its management or ownership, the permit will be void and it will be necessary to reapply.
- (13) Event organizers must meet in person with City of Smyrna officials no later than two weeks prior to the first proposed date of the event to confirm that all necessary requirements have been met.

(e) Emergency Medical Services Plan

Emergency Medical Services planning efforts may be required by the Fire Department based upon the details and nature of the event. These requirements are for the safety of all participants involved and the general public. All emergency medical services requirements shall be determined no later than 30 days prior to the event and confirmation of all plans and/or required efforts must be provided to the City no later than two weeks prior to the event. Depending upon the event, only a first aid booth may be required or an Emergency Medical Technician may be necessary for larger events. The Smyrna Fire Department will determine any reasonable fees associated with the provision of this supplemental service. Racing event organizers will need to meet with the Emergency Medical Director in the Office of the Fire Chief to go over approved racing event plans. After receiving the approved EMS plan, the event organizer will need to demonstrate their plans to comply with requirements. Failure to do so can result in revocation of the event permit.

(f) Release and Indemnity.

Each applicant must execute a release and indemnity agreement that is provided with the permit application. Applicants must demonstrate that they are either personally or organizationally responsible for liability; will guarantee orderly behavior/will underwrite any damage due to their use of the premises. Liability is assumed by the applicant in regard to any personal or property damage rising out of activities of the applicant. It is the responsibility of the applicant to read the application form completely and understand fully their responsibilities.

(g) Insurance.

A comprehensive liability insurance policy with at least five hundred thousand dollars (\$500,000) combined single-limit coverage per occurrence for bodily injury and property damage with an endorsement naming the CITY OF SMYRNA, specifically and separately, as an additional insured under the policy. Do not include any specific department or person. A certificate of insurance is to be provided to the Police Department or Office of the Assistant City Administrator no less than 30 days prior to the scheduled event.

If a racing event is approved, it will be approved pending receipt of the insurance certificate. The insurance agency must be licensed to do business in the state of Georgia and have a Class B or better rating. The company providing insurance must provide at least thirty (30) days written notice of cancellation or termination, if such cancellation or termination of the policy is to occur prior to the indicated expiration date on the face of the certificate. In the event of any changes or cancellation in the policy, the City of Smyrna must be notified by certified mail. Forms and guidance will be made available to the public via the City website or in print as required.

(h) Pre-Event Meeting with City Officials.

Event organizers must meet in-person with all necessary City of Smyrna officials as determined by the office of the Assistant City Administrator no later than two weeks prior to the first proposed date of the event to go over all event plans and confirm that all necessary planning, legal, and safety requirements have been met. Failure of the organizers to do so may result in revocation of the permit and cancellation of the event.

Additional meetings or communications earlier than this deadline are encouraged to ensure that all deadlines will be met and that the event can go on successfully. City officials will make reasonable effort to ensure event organizers' questions are answered appropriately and in a timely manner and that all the requirements are understood.

(i) Post-Event Cleanup.

Upon completion of the event, all materials, equipment, and debris shall be entirely removed and the right-of-way left in a condition satisfactory to the Director of Public Works. Any costs for clean-up by the City that result from a failure of the permit holder to properly clean up after the event will be charged to the permit holder.

(j) Late Applications.

The assistant city administrator, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than the required deadline before the date the parade is proposed to be conducted.

11-05. - Submission of application by applicant/authority and responsibilities of the City of Smyrna once application received.

- (a) Except as otherwise provided in this chapter, the assistant city administrator shall be charged with the responsibility and authority to determine whether a particular applicant shall be granted a racing event permit in the time, manner and place proposed; whether the proposed time, manner, and place of the racing event must be modified, according to criteria established by this chapter; or, whether such permit shall be denied altogether.
- (b) An applicant shall timely provide all information required for obtaining a permit to the Smyrna Police Department, and other departments as identified to them.
- (c) After reviewing the comments and/or decisions from all of the city officials, employees, departments and/or bureaus from whom this chapter requires such feedback, the assistant city administrator shall approve the permit, deny the

permit, or approve the permit with modifications or upon conditions, as set forth in this chapter. If the application is approved, the assistant city administrator, in consultation with the heads of affected departments, or their designees, shall impose restrictions or conditions as to time, manner and place, if the assistant city administrator deems such restrictions as necessary. These modifications shall be made when the assistant city administrator and the affected departments, based upon review of the application, find compelling reasons related only to public safety, health, or the environment, or to scheduling conflicts with other permitted uses at the time or place requested. The modifications shall not be based on any of the factors set forth in subsection 11-06(b) below. The assistant city administrator may deny a permit based only upon the grounds set forth in this chapter, and in particular, section 11-06 below. In no event shall permit denial be based on any of the factors set forth in subsection 11-06(b) below.

- (d) For any racing event whose application is due at least 30 days prior to the racing event, the assistant city administrator shall notify an applicant in writing of their determination regarding the application within 15 business days after receipt of the application, but in no event later than 5 business days before the date of the racing event. For any racing event whose application is due less than 30 days prior to the racing event, the assistant city administrator shall notify an applicant in writing of her/his determination regarding the application no later than five business days before the date of the racing event or three business days after receiving the application whichever is later. A notification shall inform the applicant of whether the applicant has been granted a permit to conduct a racing event without modifications to the racing event proposed on the application; granted a permit to conduct a racing event with modifications as to time, manner, or place, or with other restrictions or conditions; or has been denied a permit to conduct a racing event. Where the permit has been granted with modifications, the notification shall state clearly the terms of the conditions, restrictions and/or modifications.
- (e) Procedure when racing event permit is approved:
 - (1) After the assistant city administrator approves the issuance of a permit, the applicant may obtain such permit by agreeing to accept any classification and/or conditions imposed in accordance with this chapter, including but not limited to payment of the applicable permit fee and any other fees required pursuant to this chapter.
 - (2) The applicant must have the permit, and all sub-permits, if any, present at the racing event during the entire duration of the racing event, including but not limited to set-up and clean up. Failure to abide by this provision may result in the City, including but not limited to any Smyrna Police Department Officer's, revoking the permit and/or any sub-permit.

(f) Procedure when racing event permit request is modified or permit is denied:

When the assistant city administrator denies a permit, they shall set forth in writing the reasons for such denial in as much detail as possible. When the assistant city administrator modifies a permit application, they shall, if requested by the applicant, state in writing on the permit the reasons for the modification in reasonable detail. A modification, denial or revocation based upon inadequate police resources, as described in subsections 11-06 (b)(3) and (i) below, shall state with specificity the reasons for the assistant city administrator's opinion, giving as much detail as is possible. In denying the permit, or in granting the permit with modifications, the assistant city administrator shall abide by the provisions of section 11-06(b) below.

(g) Appeals.

(1) Any aggrieved applicant shall have the right to a hearing before the city council or their designee, provided that the request for such hearing is made to the city clerk within five business days after the applicant's receipt of the assistant city administrator's determination. The designee may be a hearing officer appointed for that purpose. The person conducting the hearing must be impartial, and must have had no involvement in the assistant city administrator's determination.

a. Where the assistant city administrator's determination notice is given only by mail, the city clerk shall presume that the notice was received three business days after the mailing. Determination notices given in person, hand-delivered to the applicant's address, or sent by facsimile transmission or e-mail shall be presumed to have been delivered on the date given or sent.

b. Should the council or their designee believe that the assistant city administrator's modification or denial of the permit was based on public safety reasons, they shall refer the appeal to the chief of police or the fire chief, as appropriate. In such situation, the aggrieved applicant shall have a right to a hearing before the chief of police or their designee, or the fire chief or their designee, as the council or their designee deems appropriate. The person conducting the hearing must be impartial, and must have had no involvement in the assistant city administrator's determination.

(2) Appeal hearings shall be held within 7 business days after the clerk's receipt of the request for a hearing. The hearing may be continued at the request of the applicant or to allow the attendance of any necessary party or witness, but only from day to day.

- (3) The appeal hearing shall be de novo. The person conducting the hearing shall evaluate the application and the assistant city administrator's decision in accordance with the criteria of this chapter.
- (4) Appeal hearings shall be informal.
- (5) The person conducting the appeal hearing may issue their decision verbally at the conclusion of the hearing, and shall issue a written decision within five business days thereafter.
The decision shall affirm or modify the assistant city administrator's determination. In addition, if the applicant is appealing the denial of a permit, the hearing officer shall have the right to reverse the assistant city administrator's determination and either grant the permit, or grant the permit with conditions.
- (6) The written decision of the person conducting the hearing shall be the final decision of the city in the matter, and shall be subject to review by the Superior Court of Cobb County by a petition setting forth an appeal and naming the City of Smyrna as the defending party. The city shall expedite its response to such petition so as to allow the provision of a judicial determination of the matter no later than ten days prior to the date of the racing event, if possible.

11-06. - General considerations regarding approval, denial, or revocation of a racing event permit.

In determining whether to approve a permit, including but not limited to the time, manner and place requested, whether to approve the permit with modifications as to time, manner and place, or whether to deny the permit altogether, the office of the city administrator and any other city representative evaluating the application, shall be guided by the following criteria:

- (a) The office of the assistant city administrator shall issue a permit as provided for hereunder when, from a consideration of the application and from any other information as may otherwise be obtained, they find that:
 - (1) The conduct of the racing event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
 - (2) The concentration of persons, animals and vehicles at assembly points of the racing event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;
 - (3) The conduct of the racing event will not unreasonably interfere with the movement of firefighting equipment en route to a fire;
 - (4) The racing event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and
 - (5) The racing event is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

- (b) Non-discrimination. This provision shall apply to all aspects of permitting. Though certain sections of this chapter refer to this provision specifically, those references are for emphasis only, and do not imply that this provision does not apply to all other sections of the chapter.
- (1) No permit shall be denied nor shall the applicant be given less favorable treatment as to time, manner, or place on account of the race, color, creed, religion, gender, domestic relationship status, parental status, familial status, sexual orientation, national origin, political affiliation or gender identity of the applicant and/or the participants of the racing event.
 - (2) No permit shall be denied nor shall the applicant be given less favorable treatment as to time, manner, or place based upon the message of the racing event, the content of speech of the racing event, nor based on the identity or associational relationships of the applicant and/or participants.
 - (3) No permit shall be denied nor shall the applicant be given less favorable treatment as to time, manner, or place on account of any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the racing event, provided that reasonable accommodation as to time, manner and place may be required in order for the city to provide the resources necessary for police protection.
- (c) The assistant city administrator may deny or revoke a permit if an applicant has an outstanding debt with the city, or if the racing event is done on behalf of or in the name of a person, organization, corporation or other group that has an outstanding debt with the city, until such time as payment is received in full.
- (d) The assistant city administrator may deny or revoke a permit if an applicant has failed to complete payment of any sums required for a previously permitted racing event, until such time as payment is received. Said sums shall include, without limitation, the cost of supplemental services, and the cost of restoration services, including those restoration services described in subsections (e) and (f) below, arising from the past racing event. In the alternative, the assistant city administrator may condition the granting of a new permit on the payment of amounts in arrears in connection with the previous racing event. The assistant city administrator may not require the payment of arrears for previous racing events unless the assistant city administrator or her/his designee had mailed or delivered to the applicant a demand for such payment within 60 days after the ending date of such previous racing event.
- (e) The assistant city administrator may deny a permit to an applicant who has failed to substantially perform a cleanup plan which was made a condition of a previous permit, or who has defaulted on a previous bond in connection with a permitted racing event until such time as restitution is made in a manner and amount satisfactory to the assistant city administrator, or until a reasonable plan for correcting the past deficiency is agreed upon by the applicant and the assistant city administrator. This provision notwithstanding, the assistant city administrator shall

- not require the payment of arrears or restoration costs from previous racing events unless the assistant city administrator or their designee mailed or delivered to the host a demand for such payment or restitution within 60 days after the ending date of such previous racing event.
- (f) The assistant city administrator may deny a permit to an applicant who caused significant damage to city streets, sidewalks, parks, and/or other city real or personal property and, at the time of submitting an application for a new racing event, failed to adequately repair the damage or failed to pay a bill for restoration services in full, provided that the assistant city administrator or her/his designee mailed or delivered to the host a demand for such repair or restoration compensation within 60 days after the ending date of such previous racing event.
 - (g) The assistant city administrator may deny or revoke a permit if the applicant has, in this city or in any other locality, violated a material condition and/or restriction of a racing event permit, or if the applicant's conduct regarding the racing event was in violation of law or local ordinance.
 - (h) The assistant city administrator may modify, deny or revoke a permit when, due to the scope of the racing event, and the number of police personnel required to provide protection and traffic control for the racing event, and due to the need for police personnel elsewhere in the city, the racing event would require the diversion of such a number of police personnel that it will be more likely than not that normal police protection elsewhere in the city cannot be provided continuously and safely for the duration of the racing event.
 - (i) The assistant city administrator may deny or revoke a permit at any time if it shall appear by competent evidence that the applicant has made a material misrepresentation or given incorrect material information on the application. Prior to such denial or revocation, the assistant city administrator shall notify the applicant of the evidence and provide the applicant with three business days in which to rebut said evidence in writing.
 - (j) The assistant city administrator may deny a racing event permit if the racing event is being held for an unlawful purpose, and/or violates a federal, state, or local law or ordinance.
 - (k) The assistant city administrator may deny or revoke a permit if the applicant does not receive all departmental approvals required to carry out the racing event, as established in this ordinance, or does not fulfill any or all of the other racing event requirements, as established in this ordinance.
 - (l) The assistant city administrator may revoke a racing event permit upon the applicant's violation of the rules set forth in this chapter after they have received the racing event permit.
 - (m) The assistant city administrator may deny or revoke a racing event permit when by reason of disaster, public calamity, riot or other emergency, the assistant city administrator, in consultation with the police chief and/or fire chief, determines that

the safety of the public or property requires revocation or denial, provided that the assistant city administrator shall not revoke such a racing event permit based on any of the factors set forth in section 11-06(b) above.

- (n) A racing event permit may be revoked and a racing event may be terminated for public safety reasons by the chief of police and/or the fire chief, or their designees, in consultation with the assistant city administrator.

11-07 Notice to city and other officials.

- (a) Immediately upon the application for a parade permit, the Smyrna Police Department should send a copy thereof to the office of the assistant city administrator, the police chief, the fire chief, the public works director, the parks and recreation director, and the community relations director; provided however, that failure to send a copy of the application to such departments shall not void the subsequent issuance of a parade permit.

11-08 Permit fees and supplemental services fees.

- (a) Permit fees are established for road races/walks that require road closures:
 - (1) Fees for the road race/walk will be listed on the city's schedule of fees and charges.
 - (2) The permittee must pay the officers working the event. The number of officers and the costs for the officers will be determined by the chief of police.
 - (3) Cost of additional services will also be listed on the city's chart of fees. The cost of providing any additional services will be paid to the city 30 days prior to the event.
- (b) Any supplemental services determined to be necessary during the application process, such as the hiring of an EMT or additional police officers, are to be determined by the relevant departments in accordance with their standard rates and fees.

11-09 Duties of permittee.

- (a) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- (b) The racing event host or their designee, shall be present during the entire racing event, and shall carry the racing event permit personally during the entire racing event, including set-up and break-down.

11-10 Public conduct during racing events.

- (a) *Interference.* No person shall unreasonably hamper, obstruct or impede, or interfere with any racing event or racing event assembly or with any person, vehicle or animal participating or used in a racing event.
- (b) *Driving Through Racing Event.* No driver of a vehicle shall drive between the vehicles or persons comprising a racing event when the vehicles or persons are in motion and are conspicuously designated as race participants unless directed by authorized traffic control personnel.
- (c) *Parking on Racing Event Route.* The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part hereof constituting a part of the route of a racing event. The chief of police shall post signs to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street not posted in violation of this chapter.

2.

Severability. Should any court of competent jurisdiction declare any section or part of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

3.

Repeal of Conflicting Provisions. All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

4.

Renumbering. It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Smyrna, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

This Ordinance shall take effect and be in force from and after the day of its adoption, the public welfare demanding it.

The above Ordinance was read and approved by the Mayor and Council of the City of Smyrna, Georgia, on the _____ day of _____ 2017.

A. Max Bacon, Mayor

Attest:

Terri Graham, City Clerk

SEAL

As to form:

Scott Cochran, City Attorney