

Council Bill No. 01-355

General Ordinance

Sponsor: \_\_\_\_\_

No. \_\_\_\_\_

AN ORDINANCE

AMENDING Chapter 6, “TECHNOLOGICAL FEES,” of the Moline Code of Ordinances, by renaming Chapter 6 to “RIGHTS-OF-WAY AND PUBLIC PROPERTY USES,” and by adopting a new Article II, entitled “INSURANCE REQUIREMENTS FOR USE OF PUBLIC PROPERTY AND RIGHTS-OF-WAY.”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

**Section 1.** That Chapter 6, “TECHNOLOGICAL FEES,” of the Moline Code of Ordinances, is hereby amended by renaming Chapter 6 to “RIGHTS-OF-WAY AND PUBLIC PROPERTY USES,” which shall read as follows:

**“CHAPTER 6  
RIGHTS-OF-WAY AND PUBLIC PROPERTY USES”**

**Section 2.** That Chapter 6, “TECHNOLOGICAL FEES,” of the Moline Code of Ordinances, is hereby further amended by adopting a new Article II, entitled “INSURANCE REQUIREMENTS FOR USE OF PUBLIC PROPERTY AND RIGHTS-OF-WAY,” which shall read as follows:

**“CHAPTER 6**

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**ARTICLE II. INSURANCE REQUIREMENTS FOR LICENSING AGREEMENTS ON PUBLIC PROPERTY AND RIGHTS-OF-WAYS**

**SEC. 6-2100. GENERAL.**

This article shall govern all Licensing Agreements or other uses of public property or public rights-of-way in which the Licensee intends to construct, build, maintain, establish, replace, use or occupy any space or area in, on, above or under any public property or public rights-of-way or improved public place (hereinafter collectively referred to as: “public property”).

**SEC. 6-2101. TERMS; DEFINITIONS.**

For purposes of this article, the following terms shall have the following meanings:

(a) **“Block Party”** shall mean a gathering of persons living within a residential neighborhood upon a city-owned right-of-way within that neighborhood, for recreational and/or social purposes.

(b) **“Carnival”** or **“Festival”** shall mean any aggregation of attractions whether shows, acts, entertainment, sporting activities, games, vending devices, amusement devices, food and/or drink service or dram shop counters, whether conducted under one or more managements or independently, which are temporarily set up or conducted in a location accessible to the public, with or without admission fee to the aggregation as a whole.

(c) **“High risk”** shall mean those activities having an increased risk of injury to persons or property.

(d) **“Improved public property”** shall mean public ways and public places that generally contain surface improvements, such as public property containing buildings, pavement, sidewalks, curbs, and gutters.

(e) **“Parade”** shall mean a group of persons with or without animals or vehicles in a public procession or march in or upon city-owned parks, streets, sidewalks or other public grounds. The term shall include road races, walk-a-thons, bike-a-thons and similar money-raising events. The term shall not include picketing or protest demonstrations which do not have the primary purpose or effect of obstructing the sidewalk or the traveling public thereon.

(f) **“Unimproved public property”** shall mean public ways and public places that generally do not contain any type of surface improvements, such as pavement, sidewalks, curbs, and gutters or that are not paved surfaces.

(g) **Examples of public property, both improved and unimproved,** include without limitation, the following:

- (i) Publicly owned land
- (ii) Publicly owned buildings or facilities
- (iii) Alleys, streets, cul-de-sacs
- (iv) Sidewalks
- (v) Easements
- (vi) Cross walkways
- (vii) Drainage channels
- (viii) All other areas embraced between the property lines and dedicated to the public use.

**SEC. 6-2102. LICENSING AGREEMENTS; WHEN REQUIRED.**

(a) With the exception of block parties, any event using public property shall follow the special events policy of the City Council as adopted from time to time. Such policy shall require, at a minimum, the execution of a licensing agreement and provision of a certificate of insurance in the amounts required in Section 6-2104 below. In addition, other activities which expose the City to liability as a result of the use of public property shall also require execution of a licensing agreement and provision of a certificate of insurance in the amounts required in Section 6-2104 below. All such certificates required herein must name the City as an additional insured. If the event or use of public property is one which has previously been approved by the City Council in a prior year, the Mayor and City Clerk are hereby authorized to sign subsequent licensing agreements in future years, subsequent to Council review and disapproval upon report. Nothing herein shall permit the closing of streets without prior council approval by special ordinance.

(b) Uses of public property which require the issuance of a Licensing Agreement and the certificate of insurance include, without limitation, the following:

- (i) Driveways
- (ii) Openings in streets
- (iii) Overhead structures or devices
- (iv) Underground devices
- (v) Underground areas
- (vi) Walkways
- (vii) Parades
- (viii) Food & Bicycle races
- (ix) Temporary mobile food service
- (x) Festivals
- (xi) Special Events
- (xii) Sidewalk Cafe

**SEC. 6-2103. CERTIFICATE OF INSURANCE; FEES.**

(a) A current Certificate of Insurance naming the City of Moline, Illinois, as an “additional insured” must be on file with the City Clerk before a license agreement will be issued or renewed pursuant to Sec. 6-2102 above. Such Certificate shall be in the precise form determined by the City’s Loss Control Manager, with the precise cancellation language required by said Manager. Additionally, if the use or event involves a state route, the State of Illinois MUST also be named as an “additional insured.”

(b) All related fees must be paid prior to issuance or renewal of a Licensing Agreement.

(c) The City Clerk shall keep a Copy of the City’s required Certificate of Liability Insurance form in the office.

**SEC. 6-2104. INSURANCE REQUIREMENTS; SPECIFICATIONS.**

(a) The City attempts to make each user of public property responsible for the degree of risk to which each use exposes the City. The calculations are not intended to approach mathematical precision or to be equitable, but are instead minimum requirements for each particular use of public property. Therefore, each user of public property shall provide a certificate of insurance in the amounts specified herein. For any High Risk activity, the costs of insurance will increase commensurate with the degree of risk. For all activities not specified, the City’s Loss Control Manger shall determine the appropriate amount, subject to written appeal to the City Administrator or designee.

(1) Nothing herein shall be construed as avoiding or repealing any other license or permit requirement of the Moline Code of Ordinances and any other such permits or licenses must be obtained in addition to the insurance herein required before processing hereunder.

(2) The description of public property uses and the insurance requirements to be provided and noted on the approved Certificates of Insurance which designates the City as additional insured are as follows:

**INSURANCE TIERS FOR PARTICULAR ACTIVITIES**

<b><u>Description</u></b>	<b><u>Insurance Requirement</u></b>
(a) Run, race, walk-a-thon, bicycle race or balloon race	\$1,000,000 in total coverage
(b) Work on Public Way License	Insurance \$1,000,000 per occurrence; Shall also indemnify City
(c) Driveways Permit Class B – Use of Public Way	Insurance \$1,000,000 per occurrence or as directed by the Director of Revenue; applicant Shall also indemnify City
(d) Streets, Curbs and Sidewalks Non Standard Surface Materials	Insurance \$1,000,000 per occurrence or as required by Commissioner of Transportation, whichever is greater; Shall also indemnify City
(e) Kiosks	\$500,000

(f)	Canopies/Marquees	\$1,000,000
(g)	Outdoor Café (No Alcohol)	\$500,000
(h)	Outdoor Café W/Alcohol Permit Requirement	\$1,000,000 plus Iowa Endorsement
(i)	Structures On/Under/Over Public Property	\$1,000,000 and Owner/person in possession of property shall indemnify City and hold City harmless for damages to persons/property relating to structure
(j)	Dumpsters/Roll Off Boxes Permit Requirement	\$1,000,000
(k)	Street fair, festival, street dance, or other event (No alcohol)	\$1,000,000
(l)	Street fair, festival, street dance, or other event (w/alcohol)	\$1,000,000 for under 500 persons expected in attendance[See subsection 6-2104(a)(3)]
(m)	Street fair, festival, street dance, or other event (w/alcohol)	\$2,000,000 for 500 to 2,000 persons expected in attendance[See subsection 6-2104(a)(3)]
(n)	Street fair, festival, street dance, or other event (w/alcohol)	\$5,000,000 for more than 2,000 persons expected in attendance[See subsection 6-2104(a)(3)]
(o)	Fire Prevention – Blasting and Explosives	Insurance (must be from insurance company rating of A-11 or better):  \$3,000,000/\$10,000,000 – Mfg. & Sale of Explosives  \$3,000,000/\$10,000,000 – Contractors Activities involving explosives with City additional insured.  \$3,000,000/\$10,000,000 per occurrence – Delivery of Explosives for one (1) vehicle; \$1,000,000 per occurrence of each additional vehicle
(p)	Signs – For Obstruction of Streets and Sidewalks (IDOT Permit Requirements)	Insurance \$1,000,000 with indemnification of City
(q)	Fireworks; Petroleum Products Motorized Vehicle Races	\$5,000,000
(r)	Carnivals, Excursion Boats,	\$5,000,000
(s)	All other Uses of Public Property	As determined by the Loss Control Manager, subject to Appeal to City Administrator or Designee

- (3) Attendance required in the immediately proceeding subsections must be estimated in good faith. Any estimate which is grossly disproportionate to actual attendance shall be presumed to be a fraud against the City, punished as an ordinance violation set forth in Sec. 1-1107 of the Code of Ordinances. For purposes of this section “grossly disproportionate” shall be where the number of persons is more than three times the attendance estimated by the user at the time of submission of the required Certificate of Insurance.

**SEC. 6-2105. USES OF PARK PROPERTY.**

Uses of Park Property shall be as determined by the Parks and Recreation Department, subject to the insurance requirements set forth by such Board.”

**Section 3.** That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney