



## Legislation Text

**File #:** R-1718-17, **Version:** 1

**RESOLUTION R-1718-17:** A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GRANTING AN APPEAL FILED BY THE CAMPUS CORNER MERCHANTS ASSOCIATION FOR THE DISPLAY OF A BANNER EXTENDING OVER ASP AVENUE FOR THE DURATION OF THE UNIVERSITY OF OKLAHOMA FOOTBALL SEASON.

**BACKGROUND:** The Norman City Council adopted an ordinance regulating and permitting special events in 2009. The special events ordinance was suggested after the April 2008 Main Street Music Festival highlighted the need for a more streamlined process to assist event planners. The objectives of the Ordinance are to streamline the permit process to assist event planners; protect health and public safety; and regulate traffic, parking, sanitation, and noise. The Ordinance applies to events lasting two or more hours, reasonably expected to attract 1,000 or more people at any time, and open to the public. To begin the process of holding an event, the event sponsor submits an application to the City Clerk who reviews the application and provides the applicant with a checklist of all necessary items and/or permits needed to obtain the special event permit. Once the City Clerk determines that the application is complete and all necessary items have been submitted, the permit is issued.

One of the annually permitted events is the OU Game Day held on Campus Corner during each home football game. In 2010, Rainey Powell, a Campus Corner property owner, requested to install a banner across Asp Avenue advertising the OU Game Day events. At that time, the Ordinance did not allow for banners to stretch across City streets due to traffic, safety, and First Amendment concerns. However, City Council ultimately voted to amend the Special Events ordinance to allow for banners across City rights-of-way with certain conditions. Chapter 13, Section 13-2712(g) provides:

- (g) Banners are allowed to be secured above city streets only while the street is closed to traffic and only during the duration of the special event. However, these banners must comply with the following conditions:
- 1) Banners are only permitted to be secured above two-lane streets.
  - 2) Banners must be properly permitted by the Director of Public Works or his designee and the building official or his designee. To be permitted, the operator must show that the plans for the proposed banner have been sealed by a licensed engineer.
  - 3) No special event operator may erect more than two (2) banners across closed streets.
  - 4) The permit fee to erect each banner is fifty dollars (\$50.00).

The September 1, 2010 City Council Oversight Committee Minutes, discussing this proposed amendment, mention that Mr. Powell's proposed banner was engineered with a pulley system that would allow for it to be easily put up and taken down before and after each OU home game which appears to be the reason that Council at the time agreed to accommodate Mr. Powell's request in light of traffic, safety, and First Amendment concerns that had prevented previous Councils from allowing banners across streets at any time.

**DISCUSSION:** Mr. Powell has again approached the City with a request to allow the banner to remain in place over Asp Avenue for the duration of the OU football season. Because allowing the banner to remain for the duration of the season is not allowed by the Special Events Ordinance, the Campus Corner Merchants Association and Mr. Powell have followed the appeals process in the Special Events Ordinance, Chapter 13, Section 13-2709. That section reads as follows:

**Sec. 13-2709. - Appeal of denial of application.**

- (a) An operator who has been denied a permit may make application for relief from portions of this article or from the City Clerk's determination to the City Manager. Such appeal must be made within ten (10) working days from the date of the City Clerk's determination and only after all issues relevant to the permit process have been determined. Upon receipt of the appeal, the City Manager will then have up to ten working days to grant relief upon an adequate showing that undue hardship would be suffered if not granted.
- (b) After having been denied relief by the City Manager as provided in (a) above, the operator shall have the right of

appeal to the Council of the City of Norman. Such appeal shall be taken by filing with the City Clerk within ten (10) working days after denial of relief by the City Manager a written statement setting forth fully the grounds for the appeal. After receipt of the written statement, the City Clerk shall schedule the appeal for hearing by the City Council on the next regular agenda. The operator shall be notified of the time of the hearing at least seven (7) days prior to such hearing. Proper mailing to the address shown on the application shall be adequate notification. The decision and order of the Council on such appeal shall be final and conclusive.

With the present request, City Staff has followed this appeals procedure. The City Manager sent an email to Mr. Powell on July 13, 2017, that serves as a denial of relief by the City Manager's Office. Thus, City Staff advised the Campus Corner Merchants Association that if they wished to pursue installation of the banner for the duration of the football season without taking it down between games, an appeal needed to be filed within 10 working days from the July 13<sup>th</sup> denial by the City Manager. According to Section (b), the appeal needs to consist of a written statement setting forth fully the grounds for the appeal. An appeal was filed with the City Clerk's Office on July 17, 2017, and it is attached to this item. Therefore, City Staff has scheduled the appeal for Council consideration on the July 25, 2017 Council Agenda.

**RECOMMENDATION:** If City Council wishes to allow the subject banner to remain in place over Asp Avenue for the duration of the University of Oklahoma football season, Staff recommends that Council adopt Resolution R-1718-17 granting the requested relief on the basis that failure to do so would result in undue hardship to the Campus Corner Merchants Association. If Council is interested in considering an ordinance amendment to allow banners to be installed across streets while the streets are open, Staff recommends referring the matter to a Council subcommittee for their review and discussion.