

ADMINISTRATIVE ORDER NO. 57-24-01-F
of the
Library, Recreation and Cultural Services Department

**ESTABLISHING AND ADOPTING RULES APPLICABLE TO THE CITY'S
BUTTERFLY LOT AND FARMERS MARKET PAVILION AND PLAZA
AND REPEALING ADMINISTRATIVE ORDER NO. 21-23-07.**

The Executive Director of the Library, Recreation and Cultural Services Department of the City of Eugene finds that:

A. Section 2.019 of the Eugene Code, 1971, authorizes the City Manager to adopt Rules for implementation of any provisions of the Code. Administrative Order No. 57-95-01 issued by the City Manager authorizes the Executive Director of the Library, Recreation and Cultural Services (LRCS) Department to adopt rules for the City Library, recreation facilities and programs, and City Cultural facilities and programs.

B. On January 31, 2019, the City of Eugene Urban Renewal Agency ("Agency") and the City each purchased from Lane County one part of a half-block of property located on the west side of Oak Street between Seventh and Eighth Avenues in Downtown Eugene, commonly referred to as the Butterfly Lot. The Agency purchased the southern half of the Butterfly Lot, identified as the "Southern County Property" in the August 31, 2017, Purchase and Sale Agreement ("Agency's Property") and the City purchased the northern half of the Butterfly Lot, identified as the "Northern County Property" in the August 31, 2017, Purchase and Sale Agreement ("City's Property").

C. On January 31, 2019, the Agency delegated to the City "authority to regulate the use and operation of Agency's Property, including the authority to adopt administrative rules that apply to Agency's Property."

D. On March 29, 2023, the Agency transferred ownership of its part of the Butterfly Lot to the City, which allows the City to permanently regulate, operate, and manage the property, including adopting administrative rules and fees for public use of the property.

E. The City Park Blocks are located on the south side of Eighth Avenue, across the street from the Butterfly Lot. The City Park Blocks are located within the geographic boundary of the Downtown Activity Zone (DAZ). The City's DAZ code provisions and administrative rules, including the DAZ permitting process, apply to the Park Blocks. In addition, the City's administratively adopted Parks and Open Space Rules ("POS Rules") apply to the Park Blocks.

F. The Farmers Market Pavilion and Plaza have been constructed on a portion of the Butterfly Lot and the Plaza is open to the public. A Downtown Activity Permit has been issued to the Farmers Market for use of the Pavilion. A portion of the Butterfly Lot will remain undeveloped for the foreseeable future, but it may be opened to the public prior to it being developed.

G. On June 22, 2022, the City Manager issued Administrative Order No. 21-22-03

adopting Emergency Butterfly Lot Rules that applied to the Farmers Market Pavilion and Plaza and the remaining undeveloped portion of the Butterfly Lot so the City could regulate the use and operation of the Butterfly Lot consistent with the Park Blocks. The Emergency Rules were subsequently extended several times during the planning process and development of rules to allow for the public to use and rent the Farmers Market Pavilion and Plaza, most recently by Administrative Order No. 21-23-07, which will expire on June 11, 2024.

H. On July 24, 2023, the City Manager issued Administrative Order No. 21-23-05 designating me as the Executive Director of the Library, Recreation and Cultural Services Department.

I. On May 15, 2024, I issued Administrative Order No. 57-24-01 ordering that Notice be given of the opportunity to submit written comments on a proposal to establish and adopt Rules applicable to the City's Butterfly Lot and Farmers Market Pavilion and Plaza so that the City can regulate the use and operation of the Butterfly Lot and to allow for the public to use and rent the Pavilion and Plaza.

J. Notice of the proposed Rules was given by making copies of the Notice available to any person who had requested such notice and by publication of the Notice in the Register Guard newspaper on May 21, 22, 23, 24, and 26, 2024, providing interested persons an opportunity to submit comments on the proposed amendments until the end of the day on June 5, 2024. No comments concerning the proposed Rules were submitted within the time or in the manner set out in the Notice.

On the basis of these findings, I order that:

1. The Butterfly Lot and Farmers Market Pavilion and Plaza Administrative Rules are hereby established and adopted by this Administrative Order No. 57-24-01-F.
2. Administrative Order No. 21-23-07 is repealed as of the effective date of this Order.
3. As of the effective date of this Order, the following are the Butterfly Lot and Farmers Market Pavilion and Plaza Administrative Rules:

**BUTTERFLY LOT AND FARMERS MARKET PAVILION AND PLAZA
ADMINISTRATIVE RULES
(Effective June 7, 2024.)**

1.000 GENERAL

(1) The Butterfly Lot, which includes the Farmers Market Pavilion and Plaza, is the half-block of property located on the west side of Oak Street between Seventh and Eighth Avenues in Downtown Eugene. Except as provided below, the City's Park and Open Space Rules adopted by Administrative Order No. 58-17-07-F, and all amendments thereto, shall apply to the Butterfly Lot, including the Farmers Market Pavilion and Plaza.

(2) The Farmers Market Plaza is a “public pedestrian area” under the primary control of the City. All City Code and administrative rule provisions governing public pedestrian areas within the Downtown Activity Zone, including code and rule provisions regarding Downtown Activity Permits, shall apply to the Farmers Market Plaza.

1.001 DEFINITIONS

As used herein, the following words and phrases mean:

City Produced or Co-Produced or City-Sponsored: An activity carried out by a city employee in the performance of assigned duties, an activity with aligned mission and goals funded by a city team or an activity authorized by a Division Manager and relevant management team, City Manager, or City Council, such as Halloween Downtown, First Friday ArtWalk, or Downtown Program Fund events.

Non-Commercial: Activities and events free of charge for the public. Events must have three or fewer commercial vendors, including food carts.

Commercial: Any activity related to or connected with trade, commerce or fundraising involving the receipt of money or property, such as, but not limited to: advertising, displaying, distributing, selling, taking orders or offering to sell or take orders for goods or services; fundraising activities; activities, events, and performances for which admission is charged; activities related to construction or demolition on abutting private premises.

Private Event: Any activity that necessitates a complete closing off of the space to the public, or is invitation-only.

1.002 HOURS

Notwithstanding Section 1.003(1) of the Park and Open Space Rules, the Farmers Market Pavilion and Plaza hours of operation are 6:00 a.m. to 11:00 p.m.

1.004 USE PERMITS

(1) **Permit Required.** Unless specifically authorized by the City pursuant to a written agreement, license, permit or other Administrative Rule, no person may conduct a public assembly, private gathering, parade, picnic, or other event in the Farmers Market Pavilion and Plaza without first obtaining a Downtown Activity Zone Event Permit.

(a) A request to use the Farmers Market Pavilion and Plaza must be submitted to the Cultural Services department by completing an application form provided by the City. Applicants requesting to use Farmers Market Pavilion and Plaza multiple times for a reoccurring event need only submit one application form per event series.

(b) Permit applications must be accompanied by the insurance requirement in addition to a signed statement (on a form provided by the City) providing that the applicant will defend, indemnify and hold harmless the City, its officials, agents and employees, for all claims of injury to property or persons that may arise as a result of any activity occurring at the event for which the

applicant seeks a City permit.

(c) Permit applications will be accepted on a rolling basis with a year-long limit for reservations.

(d) Up to twenty-four (24) months prior to the date of an event, a person may obtain a “Date Hold” for the event.

1. Date Hold requests must be submitted to Cultural Services by completing an application form provided by the City.

2. If a date is held for an event in accordance with this sub-section, but the responsible person does not submit an application form provided by the City in December prior to the year of the event, the held date will be released on January 1 of the year of the event.

3. An event at the Farmers Market Pavilion and Plaza qualifies for a date hold if all of the following conditions are met:

a. A person has submitted a complete application form provided by the City;

b. A person has submitted to the Eugene Special Events Team (ESET) an Event Notification Form;

c. The City has not permitted an event at the requested location and on the requested date for the last two consecutive years; and,

d. The applicant has demonstrated that the proposed event complies with these Administrative Rules.

(2) Use Permit Applications Must Include:

(a) A certificate of insurance naming the City of Eugene as an additional insured. The certificate must demonstrate that the applicants maintain a commercial general liability insurance policy with coverage of at least \$2,000,000, combined single limit per occurrence, \$3,000,000 annual aggregate. The policy must be a primary policy, not a policy that contributes to any coverage that the City may carry.

(b) A site plan for the Farmers Market Pavilion and Plaza, if the permit holder intends to bring equipment, booths, garbage dump boxes, portable restrooms or a stage, or if the permit holder intends to apply for a Right of Way permit for a sidewalk or street closure. This plan must include load in and load out procedures.

(c) A schedule of entertainment if the permit holder intends to use amplified sound. A roster will identify the contact person(s) that will be on-site at the event and provide the telephone number of the cell phone that the contact person(s) will be carrying while at the event site. The identified contact persons(s) must have the authority to correct problems that arise at the event.

(d) The applicant's consent to attend a pre-event conference and/or post-event conference with City staff if a request for one or both of these conferences is made by the City.

(3) Alcoholic Beverages.

(a) The consumption and/or sale of alcohol at an event for which the City has issued a permit must comply with Section 1.007 of the Park and Open Space Rules and all rules established by the Oregon Liquor Control Commission (OLCC).

(b) If an event involves the consumption or sale of alcoholic beverages, event organizers must maintain a commercial liquor liability insurance policy and submit a certificate of insurance with the permit application. Use Permit holders must maintain liquor liability coverage of at least \$2,000,000, combined single limit per occurrence.

(c) If an event involves the consumption or sale of alcoholic beverages but no permit is required for the event, event organizers must maintain commercial liquor liability insurance with liability coverage of at least \$2,000,000, combined single limit per occurrence, and submit a certificate of insurance to the City prior to the event.

(d) If an event involves the sale of alcoholic beverages, event organizers must obtain an OLCC license and provide the City with a copy of the license at least 20 days prior to the date of the event.

(4) Food.

(a) If food at the event is to be sold, catered, or given away for charitable purposes, event organizers must be willing to provide the City with a copy of the restaurant license and a certificate of insurance by the last business day of the week prior to the date of the event. For the purposes of this section, "business day" means Monday through Friday, 9 a.m. to 5 p.m., exclusive of holidays. This food licensing requirement does not extend to personal gatherings where food is not sold, but is exchanged among participants, such as potluck events.

(b) A Use Permit holder may restrict event attendants from bringing outside food and non-alcoholic beverages into the areas that are subject to a separate rental agreement with the City and that have a controlled admission. A Use Permit holder may not otherwise prohibit outside food and non-alcoholic beverages at special events.

(5) Signs and Concessions.

(a) A Use Permit holder is exempt from Section 1.060(1) of the Park and Open Space Rules which prohibits anyone, except in specifically designated areas, from erecting a sign, marker or inscription of any type within a park or open space area.

(b) A Use Permit holder is exempt from Section 1.060(2) of the Park and Open Space Rules which prohibits anyone from operating a fixed or mobile concession, soliciting, selling, offering for sale, peddling, hawking or vending any goods or services or advertising any goods or services.

1. Event organizers are responsible for maintaining control over the vendors

who sell goods or services at permitted events.

2. Sales of goods and services must be confined to the boundaries of the event.

3. If the City has an existing contract with a vendor for business in a City park or open space, that contract allows the organizer to contract with the vendor.

(6) Security/Traffic Control. For special events, an event organizer must hire enough security/traffic personnel to effectively manage the anticipated size of the event. Security requirements will be determined based on attendance, number of permits required, size of event footprint, presence of alcohol, and length of event. Traffic control personnel requirements will be determined based on scope of Private Use of Public Right of Way permit, size of event footprint and location, and length of event.

Event organizers must provide documentation establishing that the personnel hired for traffic control have adequate experience in traffic control to effectively manage the anticipated size of the event. Personnel providing traffic control services must do so in accordance with both state and local law. If an event organizer uses City of Eugene police officers to provide security or traffic control services for the event, the event organizer will be charged for the services provided by the officers as established by Administrative Order No. 56-21-07-F (and any subsequent amendments) of the City Manager pursuant to section 2.020 of the Eugene Code.

(7) Vehicle Access to Park Sidewalks and Pathways. Driving or parking motorized vehicles on internal park sidewalks, pathways and Plaza areas are prohibited outside of pre-planned load-in and load-out timeframes. Driving or parking motorized vehicles on the Plaza is restricted to the main thoroughfare demarcated by the hanging plaza lighting.

(8) Permit Application Decision. The Farmers Market Pavilion Steward or designee must grant or deny an application for a Pavilion and/or Plaza use permit within fourteen days of the application being deemed complete, unless the Farmers Market Pavilion Steward or designee extends the processing period by an additional fourteen days by written notice to the applicant. An application is deemed complete upon submission if it contains all of the information required by these rules. If City staff notifies the applicant of missing application materials, an application is deemed complete upon the applicant's submission of the missing application materials. Regardless of whether an applicant has submitted the missing application materials, the application will be deemed submitted thirty (30) days prior to a special event. If, after submission of an application but before the Farmers Market Pavilion Steward or designee renders a decision, the applicant submits revised or supplemental application materials, the Farmers Market Pavilion Steward or designee must grant or deny the application within fourteen days of receipt of the revised or supplemental application materials.

(9) Permit Denials.

(a) To the extent permitted by law, the Executive Director or designee may deny an application for a permit on any of the following grounds:

1. The applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits

issued to or on behalf of the applicant;

2. The application for permit (including any required attachments and submissions) is incomplete or improperly executed;

3. The applicant has not tendered the indemnification agreement, insurance certificate, or deposit within the times prescribed by the Farmers Market Pavilion Steward or designee;

4. The application for permit contains a material falsehood or misrepresentation;

5. The applicant is legally incompetent to contract or to sue and be sued;

6. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged City property and has not paid in full for such damage, or has other outstanding and unpaid debts to the City;

7. A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the Pavilion or Plaza or part hereof;

8. The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place;

9. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, of other users of the Pavilion or Plaza, of City employees or of the public;

10. The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services;

11. The use or activity intended by the applicant is prohibited by law, the City Code, or by the City's administrative rules.

(10) Incidentals. When a permit application is approved, at the time of permit issuance, the applicant must submit to the City a credit card to be held on file for incidentals, as established by Administrative Order of the City Manager pursuant to Section 2.020 of the Eugene Code, 1971. Incidentals that may incur a charge are:

(a) The event extends beyond the permitted time;

(b) The facility, structures, amenities or grounds areas are damaged;

(c) City property is missing or damaged;

(d) The facility or park was not returned to its original condition, including but not limited to, failure to remove litter or other debris, failure to remove bagged garbage or recycling.

1.005 PROHIBITED ACTIVITIES

In addition to all other prohibitions in these Rules and in the Park and Open Space Rules, the following activities are prohibited within the Butterfly Lot, including the Farmers Market Pavilion and Plaza:

- (1) Interference with another activity for which a Downtown Activity Permit or other Use Permit has been issued, such as, but not limited to, food trucks on the adjacent Park Blocks, permitted DAZ Events, and/or citizens enjoying downtown Eugene in the surrounding blocks.

- (2) Unless the City has authorized the possession and consumption of alcoholic liquor and hard liquor therein as part of a permit, no person may consume alcoholic liquor or possess a receptacle containing alcoholic liquor that has been opened or had the seal broken or the contents partially removed in the Farmers Market Pavilion or Plaza.

Dated this 7th day of June, 2024.

Joshua Bates

Joshua Bates (Jun 7, 2024 08:59 PDT)

Joshua Bates
Executive Director
Library, Recreation and Cultural Services Department