

ORDINANCE NO. 757

AN ORDINANCE REGULATING THE 2010 RAGBRAI EVENT
WITHIN THE CITY OF DYERSVILLE, IOWA

WHEREAS, the City of Dyersville has the police power to protect the public health, safety and welfare of its citizens; and,

WHEREAS, the Dyersville City Council has determined it reasonable and necessary to establish this Ordinance to help city officials and citizens deal with the public health and safety problems created by the infusion of a large number of people into the City of Dyersville when the Des Moines Register's Annual Great Bike Ride Across Iowa™ (RAGBRAI®) arrives and departs in Dyersville, Iowa on July 31, 2010; and,

WHEREAS, the Dyersville City Council has determined that this Ordinance shall be placed under Chapter 114, Regulation of the 2010 RAGBRAI Event within the Code of Ordinances of the City of Dyersville.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dyersville, Iowa as follows:

SECTION 1: That Chapter 114, 2010 RAGBRAI Event, of the Code of Ordinances of the City of Dyersville, Iowa, be and the same is hereby added to read as follows:

114.01 RAGBRAI Event Site. The City of Dyersville hereby grants the authority to Dyersville Events, Inc., a non-for-profit group, to make the determination of the RAGBRAI Event Site on any public or private properties within the City of Dyersville for the 2010 RAGBRAI Event.

114.02 Lease Granted. Dyersville City Council hereby leases to Dyersville Events, a non-for-profit group, any public properties within the City of Dyersville with the approval of the City Administrator on July 31, 2010. Furthermore, Dyersville City Council hereby grants full authority to Dyersville Events to erect, construct, maintain and operate said lease property for the purpose to ensure a successful 2010 RAGBRAI Event. In consideration of this Section, Dyersville Events agree to pay cash rent in the amount of one dollar (\$1.00) to the City of Dyersville.

114.03 Vendor Permit Required. No person, club, group, organization, corporation or entity of any kind shall provide or sell food or merchandise to the public on July 31, 2010 at a location other than inside their regularly-established place of business unless said person or entity shall first obtain a RAGBRAI Vendor Permit from the City of Dyersville, Iowa. Those Dyersville businesses and churches that operate only from inside their regularly established locations are exempt from the requirements of this Section.

114.04 Application for a Vendor Permit. Any person, club, group, organization, corporation or entity of any kind desiring a RAGBRAI vendor permit as set forth in Section 114.03 shall file a written application with the City Clerk's office on a form to be furnished by the City Clerk's office. The applicant shall accompany the application with a tender of the correct permit fee, as provided in Section 114.05 and shall, in addition, furnish the following information:

1. Organization name, complete with contact name, mailing address and telephone number, including area code.
2. Written proof of a Sales Tax Permit Number, or Federal ID or Social Security Number.
3. Products or Service: type of item that the business or organization would like to sell and a list of food or other choices and approximate prices. If vendor is planning to serve a meal, the person, club, group, organization, corporation or entity of any kind shall attach a menu, prices and which meals that they are planning to serve. Furthermore, the vendor shall list how many people they plan to serve, and what hours they are planning to be open.
4. Vendor shall list if they need electricity and a detail on what items that would require electrical power.
5. The applicant shall keep and maintain liability insurance in an amount of at least five hundred thousand dollars (\$500,000.00) and shall provide evidence of such insurance upon application for or renewal of each license.

6. Written declaration signed by the applicant, under penalty of perjury, that the information contained in the application is true and correct.

The City Administrator shall review and approve all RAGBRAI Vendor Permit applications.

114.05 Vendor Permit Fees. The fee for a RAGBRAI Vendor Permit shall be fifty dollars (\$50.00) for a local non-for-profit vendor and one hundred dollars (\$100.00) for a local for-profit vendor. RAGBRAI Vendor Permits issued to non-local vendors whose residence is outside ten (10) miles of the Dyersville Post Office shall be three hundred dollars (\$300.00). The electrical fee shall be twenty-five dollars (\$25.00). Furthermore, Dyersville City Council shall transfer all fees generated by the RAGBRAI Vendor Permit to Dyersville Events, a non-for-profit group, for the purpose to ensure a successful 2010 RAGBRAI Event.

114.06 Vendor Permit Location. A vendor who has been granted a RAGBRAI Vendor Permit shall locate its temporary sale facility at a location to be determined by the City Administrator or his other designated agent or agents.

114.07 Display of the License. It shall be the duty of any person granted a RAGBRAI Vendor Permit to keep his permit posted in a prominent place at the temporary sale facility for such business at all times.

114.08 Health Regulations. A person or entity issued a RAGBRAI Vendor Permit pursuant to this Chapter shall comply with the Iowa Department of Health and Dubuque County Department of Health rules and regulations pertaining to the sale and dispensing of food for consumption on its premises.

114.09 Beverages at and beyond the RAGBRAI Event Site. To promote public safety and financial stability during the RAGBRAI Event, no person, club, group, organization, corporation or entity of any kind shall provide or sell drinks, beverages or any other kind of liquid substances for human consumption in an outdoor setting open to the public on July 31, 2010 within the RAGBRAI Event Site as legally described in Section 114.01 of this Chapter and within seven hundred and fifty (750) feet of all real estate lying outside of said RAGBRAI Event Site, except that the Dyersville City Council hereby grants full legal authority to Dyersville Events, a non-for-profit group, or their designated agents to sell drinks, beverages or any other kind of liquid substances for human consumption in an outdoor setting open to the public on July 31, 2010 within the RAGBRAI Event Site and/or within seven hundred and fifty (750) feet of all real estate lying outside of said Event Site. Those Dyersville businesses and churches that operate only from inside their regularly established locations are exempt from the requirements of this Section.

114.10 Mutual Indemnification.

1. Dyersville Event's Indemnification. Unless resulting from negligent actions or omissions of, or willful misconduct of, City of Dyersville, its employees, agents or contractors, Dyersville Event agrees to hold City of Dyersville harmless, indemnify it, and, at City of Dyersville's option, defend it from and against all liability, damages, losses, costs, causes of action, charges and expenses, including reasonable attorney fees, which City of Dyersville may sustain, incur or be liable for arising out of or related to Dyersville Event's use or occupancy of the RAGBRAI Event Site.

2. City of Dyersville's Indemnification. Unless resulting from negligent actions or omissions of, or willful misconduct of, Dyersville Events, its employees, agents or contractors, City of Dyersville agrees to hold Dyersville Event harmless and indemnify it, and, at Dyersville Event's option, defend it from and against all liability, damages, losses, costs, causes of action, charges and expenses, including reasonable attorney fees, which Dyersville Event may sustain, incur or be liable for arising out of or related to City of Dyersville's use or occupancy of the RAGBRAI Event Site.

114.11 Insurance. Dyersville Event shall provide such insurance as is required by the City of Dyersville, which is as follows:

1. Any policy of insurance or certificate of insurance required hereunder shall be with a carrier authorized to do business in Iowa.

2. Any policy of insurance required hereunder shall provide for a thirty-day notice to the City of Dyersville of any material change in coverage with respect to the activity contemplated under this Chapter or any cancellation of the policy prior to its expiration date.

3. Dyersville Events shall furnish to the City of Dyersville certificates of commercial insurance with limits that is acceptable to both parties and shall also furnish certificates of insurance from all independent contractors or subcontractors hired by Dyersville Events or any independent contractor or subcontractor.

4. Coverage is to include: occurrence form, premises/operations/products/completed operations coverage, independent contractors' coverage, contractual liability, broad form property damage, personal injury, City of Dyersville named as an additional insured with 30 days' written notice of any material change or cancellation as provided in the Section above.

114.12 Nuisance. The sale of food, beverages, other merchandise or the erection of a temporary facility for the sale of food, beverages or other merchandise without a RAGBRAI Vendor Permit on July 31, 2010, in violation of the provision of this Chapter shall be considered a nuisance, as defined Chapter 50 of the Code of Ordinances of the City of Dyersville, Iowa. If this type of nuisance is determined to exist, an emergency abatement procedure pursuant to Section 50.09 of the City Code is hereby authorized and may be executed by any peace officer or those acting at their direction by dismantling and removing the nuisance without notice. However, if the only nuisance or violation of this Chapter is the offender's failure to obtain the necessary permit, the City Administrator or his designated agent or agents, in lieu of immediate abatement, may allow the person or organization to immediately purchase a necessary permit as provided by this Chapter.

114.13 Violations – Penalties. Selling or supplying food or merchandise to any person without a RAGBRAI Vendor Permit on July 31, 2010, or any violation of this Chapter shall be a simple misdemeanor punishable by a maximum fine of \$100.00 and/or a maximum of thirty (30) days in Jail. Furthermore, any violation of this Chapter shall constitute a municipal infraction. Penalties for municipal infraction may be a fine up to \$500 for first offense or up to \$750 for second and subsequent offenses.

114.14 Effective Period. The provisions of this Chapter shall be effective from 12:01 AM (CDST) on July 31, 2010 until 6:00 PM (CDST) on July 31, 2010.

114.15 Street Closings. During the effective dates of this ordinance and without prior City Council approval regarding the blocking of any city streets, Dyersville Police Chief may cause barricades or road blocks to be placed in any City street, alley or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle and vehicular traffic within the City limits of the City of Dyersville.

114.16 Repeal of Park Regulations. Section 47.05, Parks Closed, and Section 47.06, Camping, of the City Code of Ordinances are hereby repealed during the Effective Period and only at the RAGBRAI Event Site.

SECTION 2: REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3: SEVERABILITY CLAUSE: If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or party thereof not adjudged invalid or unconstitutional.

SECTION 4: WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed and approved by this Council on the 7th day of June, 2010.

James A. Heavens, Mayor

Attest: Tricia L. Maiers, City Clerk

I certify that the foregoing was published as Ordinance No. 757 on the 9th day of June, 2010.