

COMMISSIONERS' ORDINANCE NO. Δ-06-19

AN ORDINANCE AMENDING CHAPTER 93, SECTIONS 93.30 THROUGH 93.99, SPECIAL EVENTS, OF THE COVINGTON CODE OF ORDINANCES TO CLARIFY EVENT APPLICATION REQUIREMENTS AND PROCEDURES.

\* \* \* \*

WHEREAS, Chapter 93 of the Covington Code of Ordinances, Sections 93.30-93.99 sets forth requirements and procedures for obtaining a special event permit;

WHEREAS, A special event permit allows a permittee to conduct activities which take place on City property or on private property if the private event results in a direct impact on City resources or right of way;

WHEREAS, The existing special event permit ordinance would benefit from various updates including the improvement of legal compliance, clarification of oversight authority for public safety resources, and improved requirements for confirming an applicant's financial security; and

WHEREAS, City staff recommend the adoption of the proposed amendments below.

NOW, THEREFORE,  
BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF  
COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Chapter 93, Sections 93.30 through 93.99, of the Covington Code of Ordinances is amended to read as follows:

**SPECIAL EVENTS**

**§ 93.30 [~~DEFINITION.~~] TITLE, PURPOSE, POLICY, INTENT, DEFINITIONS.**

[~~For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~]

[~~**SPECIAL EVENTS.** Any festival, ceremony, show, demonstration, exhibition, pageant, transient amusement enterprise, outdoor temporary gathering or similar event, in or on or having substantial impact on any street, park, or other public place in the city.~~]

**(A) Title. This subchapter shall be known as the Special Events Ordinance.**

**(B) Purpose.** *It is the purpose of this subchapter to provide for the issuance of special event permits to regulate events on the public right-of-way and public property of the City in the interest of public health, safety and welfare; and to provide for fees, charges and procedures required to administer the permit process.*

**(C) Policy.** *It is the policy of the City, as implemented through this subchapter and any policies and procedures adopted hereunder, or hereinafter, to recognize the substantial community benefits that result from special events. These events provide cultural enrichment, promote economic vitality, and enhance community identity and pride. They also provide opportunities for family activities and funding for our community's nonprofit organizations. Therefore, the City shall endeavor to accommodate special events that are deemed to be in the best interests of the City, its residents, and guests. It is the City's goal to have successful special events that enrich and promote the community and contribute to the local economy.*

**(D) Intent.** *It is the specific intent of this subchapter and any policies and procedures adopted hereunder, or hereinafter, to place the obligation of complying with the requirements of this subchapter upon the applicant or organizer, and no provision hereof is intended to impose any duty upon the City of any of its officers, employees, or agents. Nothing contained in this subchapter or any policy or procedure adopted hereunder is intended to be or shall be construed to create or form the basis for liability on the part of the City, or its officers, employees, or agents, for any injury or damages resulting from the failure on the applicant or organizer to comply with the provisions hereof.*

*Furthermore, this subchapter imposes regulatory requirements on certain activities that are held on City streets and on City property and that are defined as "special events." The requirements imposed by this subchapter do not alter, supersede, or nullify any requirements contained in other statutes, ordinances, or regulations that may also regulate special events. These requirements shall be applied in a content neutral manner and without discrimination as to race, religion, sex, national origin, political affiliation, or other unlawful discriminatory classification.*

**(E) Definitions.** *The following words and phrases when used in this subchapter shall have the following meanings:*

**(1) Special Event.** *Any festival, carnival, walk, autocade, block party, fair, athletic event, production, fund raiser, gala, celebration, ceremony, race, tournament, activity, or other event to which the general public is invited to participate or attend, that is organized, promoted, conducted, or sponsored by the City, the county, or any other person, corporation*

(for-profit or nonprofit), partnership, company, association, organization, charity, or other entity, and which involves the use of publicly owned, leased, or controlled property, including public right-of-way (streets and sidewalks) and/or City services, and involves twenty-five (25) or more human participants, or, in the case of events involving fewer than twenty-five (25) or more human participants, those events which involve use of streets, sidewalks, parks, or other City property in a way that does not comply with normal or usual traffic, pedestrian, park, or similar regulations or controls.

Special events shall also include the above-mentioned events held on private property that would have a direct impact on traffic congestion or flow to and from the event over public right-of-way or which would appreciably impact the need for police, fire, or other public safety and emergency services. As a general rule, any of the above-mentioned events held on private property to which the public is invited to attend and which the organizer expects will be attended by five hundred (500) or more persons, is presumed to have a direct impact on public right-of-way, police, fire, and other emergency services, and shall be deemed a special event for purposes of this subchapter. However, events with significantly smaller attendance may also qualify under this subchapter as a special event if they exceed their intended purpose, reasonable occupancy, or impact on City right-of-way.

(2) Applicant. The authorized officer, employee, representative, or agent of the organization or group who completes the application and who will be the primary contact for the special event.

(3) Organizer. The person, business, corporation (for-profit or nonprofit), partnership, company, association, organization, or other entity responsible for the special event to be held.

(4) Spontaneous Event. A special event that is occasioned by news or affairs coming into public knowledge fewer than fourteen (14) days before the special event.

### **§ 93.31 PERMIT REQUIRED; EXCEPTION; CATEGORIES AND FEES.**

(A) *Special event permit required.* No person shall engage in, participate in, aid, form, or start any special event unless a special event permit has been obtained from the City Manager. However, this section shall not apply to:

- (1) Parades and public assemblies as defined in §§ 93.01 through 93.17.
- (2) A governmental agency acting within the scope of its functions.

**(3) Funeral processions.**

**(4) Individual or individuals lawfully assembled for the purpose of exercising their rights protected under the First Amendments of the United States and Kentucky constitutions.**

**(5) Golf tournaments hosted at a designated golf course or related golf course facility (unless the event requires services or support from a City department).**

**(6) Picket lines which do not interfere with the normal flow of pedestrian or vehicular traffic, including emergency vehicles.**

**(7) A spontaneous event conducted in a manner that does not unduly disrupt or inconvenience the public in the use of property involved, provided that the organizer of a spontaneous event is encouraged to give as much advance notice as reasonably possible to permit the City to provide services and/or equipment necessary for the spontaneous event.**

**(B) Special event categories; fees. The following special event categories and fees shall apply, except that the fee for any event sponsored by the City may be waived:**

(1) Low impact. No physical activity by participants and no severe exposure to risk of harm to spectators, such as but not limited to indoor and outdoor meetings, neighborhood picnics, small theatrical performers, auctions, and social gatherings. Crowd size of event: less than 1,000 persons. Fee: \$25.

(2) Medium impact. Limited physical activity by participants and no severe exposure to risk of harm to spectators, such as but not limited to dances, animal shows, petting zoo, rallies, flea markets, and family-type musical gatherings. Crowd size of event: 1,000 to 2,500 persons. Fee: \$50.

(3) High impact. Major participation by participants and/or moderate to severe exposure to risk of harm to spectators, such as but not limited to team or individual sporting events, (non-professional) circuses, carnivals with rides, running road races, or similar events. Crowd size of event: more than 2,500 to 5,000 persons. Fee: \$75.

(4) Special impact. Events such as but not limited to Maifest, Oktoberfest, Mardi Gras, [rɒk] concerts, professional or collegiate sporting events, rodeos, vehicle races, firework displays. Crowd size of event: more than 5,000 persons. Fee: \$100.

(5) Block party permit. A block party is a neighborhood gathering confined to a block or a portion of a street where no alcohol is allowed, served or consumed on public property. Event coordinator or sponsor shall indemnify and hold city

harmless as indicated in § ~~93.33(F)(5)(a)3.~~ **93.33(L)(3)** herein for any loss or damage associated with the block party event. Crowd size of event: less than 200 persons. Fee: \$25.

(C) *Alcohol involved.* In any event where alcoholic beverages are allowed or served, that event shall be considered a "special impact" event.

### **§ 93.32 PERMIT APPLICATION.**

(A) **An [A]application for a special event permit shall be [filed with] *completed and submitted* to the City Manager on forms provided by him or her[. An application for special event permit shall be filed with the City Manager] in accordance with the city's Special Event *policies and procedures* [Policy and Procedure.] *no sooner than one (1) year and no later than forty-five (45) days prior to the proposed special event. A completed application shall not constitute approval of the permit.***

**(B) A waiver of the application deadline may be granted upon a showing of good cause or at the discretion of the City Manager. The City Manager may consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application, and arrange police and other City services and/or equipment for the event. Filing an application after the filing deadline may result in a penalty, including a late fee or denial of permit.**

**(C) Special event applications shall be considered in the order in which they are received. Special events requested for the same day and time and at the same or similar location will be granted on a first-come, first-served basis, unless it can be shown that it is in the best interest of the City, its residents, and guests to allow such simultaneous events. Scheduling preference may be given to City-sponsored events or events directly benefitting residents and guests of the City.**

~~(B)~~**(D)** The application for a special event permit shall set forth the following information:

- (1) The name, address, and telephone number of the person seeking to conduct the special event;
- (2) If the special event is proposed to be conducted for, on behalf of, or by an organization, the name, address, telephone number and e-mail address of the headquarters of the organization, and of the authorized heads of the organization;
- (3) The name, address, telephone number and e-mail address of the person **or applicant or organizer** who will be the special event chairperson and who will be responsible for its conduct;
- (4) The date and hours when the special event is to be conducted;

- (5) A description of the area to be utilized, including requested street changes and parking restrictions;
- (6) A description of the activities to be conducted;
- (7) The expected total attendance for the event, and the estimated maximum number of people to be assembled at any one time;
- (8) Verification of the applicant or sponsoring organization that proof of adequate liability insurance coverage shall be provided;

**(9) Verification and acknowledgment by the applicant of the duty to inform the City Manager of any change in details regarding the proposed event during the application process or after an permit is approved but before the special event takes place.**

~~[(9)]~~ **(10)** Any additional information and criteria which the City Manager or his or her designee shall find reasonably necessary to a fair determination as to whether a permit should be issued.

**(E) An issued special event permit may include, among other provisions, reasonable terms and conditions as to: (i) the time, place and manner of the event, (ii) compliance with health and sanitary regulations, (iii) emergency services, and (iv) security.**

**(F) The City Manager, in conjunction with input and recommendations received from other City departments, may require additional permits to meet the conditions established and/or other City ordinances including, but not limited to: special noise variance, street closure permit, and special temporary alcoholic beverage license.**

**(G) Additional fees may be incurred and assessed for required City services such as electrical service, security, fire protection, park user fees, etc.**

**(H) The City will not tolerate disorderly conduct, obscene or vulgar gestures, and any unlawful behavior at any permitted event by any event organizer, performer, staff, volunteer, or anyone associated in any way with the management or participation in the event.**

**(I) The City Manager and any applicable City department staff may contact the organizer and/or applicant to schedule a meeting to discuss the details of the proposed special event prior to making a final determination of approval or disapproval of the event.**

**(J) Before approving any special event application, the City Manager and any applicable City department staff shall consider, but are not limited to, the following criteria:**

- (1) Impact on local economy.**
- (2) Impact on public health and safety.**
- (3) Impact on transportation and traffic within the proposed event area.**
- (4) Availability of and access to emergency services.**
- (5) Availability and/or diversion of City resources.**
- (6) Complete application and accurate information.**
- (7) Compliance with other City, county, state and federal permits as required by law.**
- (8) Outstanding delinquent accounts or liabilities, if any, to the City.**
- (9) Adverse impact or undue hardship, if any, on access and operation of businesses and homeowners.**
- (10) Ability or resources of the applicant to adequately comply with the terms and conditions of the proposed event.**
- (11) The applicant's management of previous events.**

**§ 93.33 STANDARDS FOR PERMIT ISSUANCE.**

**Upon receipt of a completed application, including all necessary attachments and addenda, the City Manager, or his or her designee, shall distribute the completed application to the applicable City departments for review. Upon completion of review of an application by a City department, the department shall issue a written recommendation to the City Manager.** The City Manager shall issue a permit as provided for hereunder when, from a consideration of the application, **the written recommendations from City departments,** and from any other information that may otherwise be obtained, he or she finds that:

- (A) The conduct of the special event will not present an unreasonable hazard to the health or safety of the public;**

(B) The conduct of the special event will not require the diversion of so great a number of police officers of the [city]**City** to properly police the event and areas contiguous thereto as to prevent normal police protection to the [city]**City**;

(C) The conduct of the special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the [city]**City** other than that to be occupied by the special event and areas contiguous thereto;

(D) The concentration of persons, animals, vehicles, and equipment will not duly interfere with proper fire and police protection, and ambulance service;

(E) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance;

(F) ***Except in the case of City-sponsored events,*** [The] ***the*** applicant or sponsor of the event shall provide ***proof of*** general liability insurance ***and any other applicable insurance*** coverages against hazards for claims involving personal injury, bodily injury, property damage, damages, medical expenses, business expenses, other expenses, and any loss or damages arising in tort or breach of contract or insurance contract or otherwise as a result of the special event as follows:

(1) Low impact:

(a) A minimum of \$500,000 per occurrence and/or aggregate limit of liability is required.

(b) The City Manager may waive the requirement for general liability insurance coverage for low impact events if the applicant represents that participants will not be exposed to risk of harm and indemnifies the [city]**City** as indicated in division [(F)(5)(a)3] ***(L)(3)*** of this section.

(2) Medium impact: A minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required.

(3) High impact: A minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required.

(4) Special impact: A minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required.

~~[(5) Alcohol involvement. Any event where alcohol is allowed, served or consumed shall require a minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required.]~~

~~[(a) Additional requirements.]~~

~~[1. The applicant or sponsor of the event shall name the city and city officials as an insured under the policy of insurance.]~~

~~[2. The applicant or sponsor of the event shall provide the city with written verification that the required insurance coverage is in affect for the event.]~~

~~[3. The applicant or sponsor of the event shall indemnify and hold the city harmless from all claims for liability against the city, city employees and elected officials arising from the issuance of the special events permit and any occurrence at the event. All special events will require a written hold harmless and indemnification agreement holding harmless and indemnifying the city, city employees and elected officials.]~~

(G) The applicant or sponsoring organization has agreed to the [city's]**City's** requirements concerning regulations and costs associated with cleanup, police and fire department service and other associated [city]**City** services;

(H) There will be sufficient city manpower available to provide necessary services, such as police and fire protection and cleanup[-];

**(I) The time, route or size of the event will not substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will not disrupt the use of a street or highway at a time when it is usually subject to traffic congestion;**

**(J) The event will not violate any City ordinance or other applicable law;**

**(K) The nature and details of the proposed event have not changed during the application review process in a manner that would require additional review by City department staff before the permit is approved; and**

**(L) Any or all of the following additional requirements are satisfied:**

**1. The applicant or sponsor of the event shall name the City and City officials as an insured under the policy or policies of insurance.**

**2. The applicant or sponsor of the event shall provide the City with written verification that the required insurance coverage is in effect for the event.**

**3. The applicant or sponsor of the event shall indemnify and hold the City harmless from all claims for liability against the City, City employees, agents and elected officials arising from the issuance of the special events permit and any occurrence at the event. All special events will require a written hold harmless and indemnification agreement holding harmless and indemnifying the City, City employees, agents and elected officials.**

**4. If it is determined that City resources, including but not limited to police and fire department personnel costs, are needed to ensure a safe event, the applicant must present proof of sufficient financial security or post a bond or deposit funds with the City to hold in escrow equal to the amount of the anticipated cost of obtaining sufficient police and fire department personnel or other costs. The City Manager may exercise his or her discretion regarding whether proof of financial security, bond, or escrow funds is required.**

**§ 93.34 DENIAL OF PERMIT.**

[Without regard to any other provision of this subchapter, the City Manager, only from his or her consideration of available, appropriate, and necessary information, shall deny the application for a permit provided for by this subchapter when, from this information, he or she has reason to believe that any contemplated advocacy at the proposed event will be directed to inciting or producing imminent lawless action and will likely incite or produce such action.]

**The City Manager shall approve an application for an event permit unless he or she determines, from consideration of the application and from any other information that may otherwise be obtained, that:**

**(A) Any contemplated advocacy at the proposed event will be directed to inciting or producing imminent lawless action and will likely incite or produce such action; or**

**(B) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail; or**

**(C) The applicant has failed to complete the application form, including all necessary documents and information, within the time frame permitted by the City Manager and established by City policy and procedure after having been notified of any additional information or documents required; or**

**(D) The applicant has failed to pay costs, fees or other expenses for the application or for previous special event permits or has had a special event permit revoked within the preceding twenty-four (24) months; or**

**(E) Another event permit or application has been received prior in time, or has already been approved, to hold another event on the same date and time requested by the applicant, or so close in time and place as to cause undue traffic congestion, or burden the City's ability to meet the needs of police, fire or other emergency services to the**

remainder of the City due to more than one (1) event occurring anywhere in the City.

### § 93.35 NOTICE OF REJECTION.

The City Manager shall act upon the application for a special event permit in a timely manner after the filing thereof. If the City Manager disapproves the application, he or she shall notify the applicant~~[, in a timely manner]~~ stating the reason for his or her denial of the permit. **The City Manager shall give any notice of rejection in a manner that will allow sufficient time for the applicant to request and proceed with an appeal if necessary.**

### § 93.36 APPEAL PROCEDURE.

Any person aggrieved **by the decision of the City Manager** shall have the right to appeal ~~[the denial]~~ **any such decision** ~~[of]~~ **regarding** a special event permit to the Board of Commissioners **by filing a written notice of appeal with the City Clerk within five (5) days after the decision is rendered. The appeal shall be heard: (i) no later than twenty (20) days after the notice of appeal is filed, or (ii) prior to the date of the proposed special event, if it is proposed to occur sooner than the twenty (20) days. An applicant must file the appeal within the appropriate time period to allow the City to give legal notice of a special meeting of the Board of Commissioners. The appeal shall be based on the record, except when the Board of Commissioners, in its sole discretion, requests additional evidence from the interested parties or other witnesses.** ~~[The notice of appeal shall be filed with the City Manager within five days of notice of denial.]~~ No appeals will be considered if an appeal is not filed in a timely manner.

### § 93.37 CONTENTS OF PERMIT.

Each special event permit shall state the following information:

- (A) Name of applicant, and sponsoring organization, if any;
- (B) Dates and times of the event;
- (C) Any other information that the City Manager finds necessary for the enforcement of this subchapter.

### § 93.38 REVOCATION OF PERMIT.

The City Manager shall have the authority to revoke ~~[a special event permit]~~ **any permit** used under this subchapter, upon application of the standards for issuance as set forth in §§ 93.33 and 93.34. **Revocation of a permit issued under this subchapter may be appealed using the same process set forth in § 93.36.**

### § 93.39 DUTIES OF PERMITTEE.

A permittee under this subchapter shall comply with all permit directions and conditions and with all applicable laws and ordinances. The special event chairperson or other person heading or leading the activity shall carry the special event permit upon his or her person during the conduct of the event. **A permittee under this subchapter shall not modify any recommended security staffing requirements unless such modification is approved by the Chief of Police or his or her designee.**

**§ 93.40 PUBLIC CONDUCT DURING SPECIAL EVENTS.**

(A) No person shall unreasonably hamper, obstruct, impede, or interfere with any special event or with any person participating in, or property used in a special event.

(B) The Chief of Police shall have the authority, when reasonably necessary, to close off highways and to restrict usage and parking thereon. The Chief of Police shall post signs to that effect. No person shall park or leave unattended any vehicle in violation of any sign. No person shall be liable for parking on a street unposted in violation of this section.

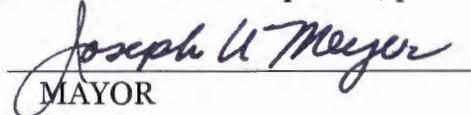
**§ 93.99 PENALTY.**

(A) Any person convicted of violating the provisions of §§ 93.01 through 93.17 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

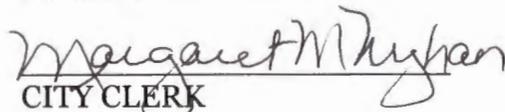
(B) Any person convicted of violation of §§ 93.30 through 93.42 shall be deemed guilty of misdemeanor and shall be fined in an amount not to exceed \$500 or imprisoned in the county jail for a term not to exceed six months.

Section 2

This Ordinance shall take effect and be in full force when passed, published and recorded according to the law.

  
MAYOR

ATTEST:

  
CITY CLERK

Passed: 3-12-19 (Second Reading)

2-26-19 (First Reading)

Meeting Date:					
ORD.: 1ST		2ND			
OR:					
	Bowman	Downing	Smith	Williams	Meyer
Yeas	✓	✓	✓	✓	✓
Nays					
Present, not Voting					