

ORDINANCE #2017-02-007

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON REGARDING SPECIAL EVENTS: REPEALING CHAPTER 10.32 (PARADES), ADOPTING A NEW CHAPTER 13.13 (SPECIAL EVENTS), AND AMENDING SECTION 20.10.040 (TEMPORARY USES) OF THE BELLINGHAM MUNICIPAL CODE

WHEREAS, the Bellingham Comprehensive Plan recognizes that the community is enriched by a full range of cultural, athletic and expressive events; and

WHEREAS, the City Council hereby reaffirms that special events and, in particular those special events that are free and open to the general public, provide the Bellingham community and its citizens with substantial public benefits, including cultural enrichment, economic vitality, tourism, and enhanced community identity and pride; and

WHEREAS, the City Council's goal is to encourage, support and accommodate special events in a manner that fulfills the City's responsibility to protect public health and safety; and

WHEREAS, in furtherance of this goal, the City Council desires to adopt a comprehensive administrative review and approval process for special events that is efficient, clear, and predictable for City staff and event organizers and is protective of first amendment rights; and

WHEREAS, this new administrative review and approval process shall be contained in a new chapter of the Bellingham Municipal Code, which may be further described in a Special Events Guide developed by City staff.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES HEREBY ORDAIN THAT:

Section 1. BMC 10.32 - Parades - is Repealed.

BMC Chapter 10.32 - "Parades" is hereby repealed in its entirety.

Section 2. BMC 13.13 - Special Events - is Adopted.

BMC Chapter 13.13 - "Special Events" is hereby adopted as follows:

**Chapter 13.13
SPECIAL EVENTS**

Sections:

- 13.13.010 Purpose
- 13.13.020 Definitions
- 13.13.030 Permit — Required
- 13.13.040 Permit — Waivers and Exemptions

Special Events Ordinance - 1

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

- 13.13.050 Permit — Application Requirements
- 13.13.060 Permit — Application Review
- 13.13.070 Permit — Fees
- 13.13.080 Permit — Revocation
- 13.13.090 Hold Harmless
- 13.13.100 Insurance Requirements
- 13.13.110 Duties of Event Sponsor
- 13.13.120 Violation
- 13.13.130 Severability
- 13.13.140 Adoption of Special Event Guide

13.13.010 Purpose.

The purpose of this Chapter is to provide for the issuance of special event permits to regulate events in the interest of public health, safety and welfare; and to provide for fees, charges and procedures required to administer the permit process.

13.13.020 Definitions.

In this chapter, unless a different meaning plainly is required, the following definitions shall apply:

- A. "Applicant" means any person or organization who seeks a special event permit from the City to conduct or sponsor an event governed by this section. An applicant must be eighteen years of age or older.
- C. "City" means the City of Bellingham.
- D. "Event Sponsor" means the person responsible for the special event to be held.
- E. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- F. "Special event" means an event planned to be held in a "public place" which is reasonably expected to have a "substantial impact on such public place" and require the provision of "substantial City services". Special event also means a temporary use of private property that is reasonably expected to have a substantial impact on a public place or be of a temporary use that is different from the occupancy classification assigned to the property or portion thereof under provisions of the building code in effect when the use was established.

The term special event includes but is not limited to "parades", "athletic events", festivals, concerts, rallies, protests, etc.

The above terms are defined as follows:

"Public place" means a City park, street, sidewalk, right-of-way, or other City property.

"Substantial impact on a public place" means an event would preclude in whole or in substantial part the public's normal and customary use of such public place.

"Substantial City services" means a material increase in the amount, scope or level of necessary fire, police, traffic control, crowd control or other public services above those that would normally be required without the event. With respect to police resources, substantial public services means resources for crowd management or traffic control required for the event over and above the normal deployment of police in that geographic area of the City at the time of day during which the event will occur.

"Parade" means any march or procession consisting of people, animals, bicycles, vehicles or combination thereof, except funeral processions, on any public street, sidewalk, alley or other public right-of-way, which obstructs, delays or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws or controls.

"Athletic event" means an occasion in which a group of persons collectively engage in a sport or form of physical exercise on a public street, sidewalk, alley or other public right-of-way, which obstructs, delays, or interferes with the normal flow of pedestrian or vehicular traffic, or does not comply with traffic laws and controls, including but not limited to bicycle races, bike-a-thons, foot races, fun runs, and walk-a-thons.

13.13.030 Permit — Required.

- A. Any person or organization desiring to conduct or sponsor a special event in the City shall first obtain a special event permit from the City.
- B. If a proposed use or event would otherwise require both a right-of-way use permit under Chapter 13.14 BMC and a special event permit under this chapter, then the application shall be processed under this chapter and a right-of-way use permit under Chapter 13.14 BMC shall not be required.
- C. When this section conflicts with or otherwise duplicates provisions of another BMC code section, this section shall supercede.

13.13.040 Permit —Categorical Exemptions and Waivers of Specific Requirements

- A. Categorical Exemptions. A special event permit is not required for:
 - 1. Funeral and wedding processions;
 - 2. Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;

3. A governmental agency, including military units of the state of Washington and the United States, acting within the scope of its functions.
4. An event occurring in a City park that does not require review by City departments other than the Parks and Recreation Department, and is not expected to have a substantial impact on the normal use of the park or nearby public place or require the provision of substantial City services.

B. Waivers of Specific Requirements. The following special events require a special event permit but are exempt from certain requirements as follows:

1. For an exercise of rights protected by the First Amendment to the United States Constitution, the application shall be accepted without regard to the submission deadlines of this Chapter, shall be processed with reasonable promptness, and the review fees for the application, charges for City services, and indemnification and insurance requirements of this Chapter shall be waived.
2. Block parties meeting all of the following criteria shall not be required to pay review fees or provide indemnification or insurance:
 - a) The block party has an anticipated attendance of three hundred (300) people or fewer; and
 - b) The block party will close off a residential street segment no more than one (1) block in length, or a sidewalk or alley abutting a park, or an unopened right of way; and
 - c) The block party will occur during daylight hours for a duration of eight (8) hours or less; and
 - d) The block party does not require police service for crowd control.

13.13.050 Permit — Application Requirements.

A. The application shall be on a form provided by the City which, at a minimum, shall require the following information:

1. The name of the applicant, the sponsoring organization, the contact person, and the address and telephone number of each;
2. A description of the special event, the date when it is proposed to be conducted, the location and the hours of operation, including site map, schedule of events and location of events;
3. Such other information as the City may deem reasonably necessary.

B. Applications shall be submitted within the timeframe outlined in the Special Event Guide.

13.13.060 Permit — Application Review.

A. The City shall review the application and either approve, approve with conditions or deny the application. In deciding whether to approve, approve with conditions, or deny a permit, the City shall determine whether:

1. The event, as proposed, can be shown to function safely;
2. The diversion of police and fire resources to support the event will not deny reasonable police and fire protection to the City;
3. The special event will not cause irreconcilable interference with previously approved or scheduled events, construction, maintenance, or other activities;
4. The special event will not unreasonably disrupt the orderly or safe circulation of traffic as would present an unreasonable risk of injury or damage to the public.

If the conditions set forth in the paragraphs above are not met, the City shall offer the applicant the opportunity to submit an alternative proposal before denying the application. If the application is denied, the reasons for denial shall be stated in writing.

B. The City may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place and manner of the event as necessary to protect the safety of persons and property and the control of traffic; provided such conditions shall not unreasonably restrict the right of free speech. Conditions imposed shall not be based on the programming content of the event or message that the proposed event may convey. The City shall issue the required conditions in writing to the applicant. Conditions may include, but are not limited to:

1. Alteration of the date, time, route or location of the special event;
2. Elimination of an activity which cannot be mitigated to a point as to ensure public safety and welfare, or which causes undue liability to the City;
3. Conditions concerning the area of assembly and disbanding of a parade or other events occurring along a route;
4. Conditions concerning the accommodation of pedestrian, bicycle or vehicular parking or traffic, including restricting the event to only a portion of a public place;
5. Requirements for the use of traffic control devices, such as cones or barricades;
6. Requirements for the use of City personnel and equipment;

7. Requirements for the provision of first aid or sanitary facilities;
8. Requirements for the use of event monitors and/or providing notice of permit conditions to event participants;
9. Requirements to provide notice to, or approval from, surrounding property and/or business owners;
10. Restrictions on the number and type of vehicles, animals or structures at the event, and inspection and approval of floats, structures and decorated vehicles for fire safety;
11. Compliance with animal protection ordinances and laws;
12. Requirement for the use of supplies for sanitation, cleanup and/or restoration of City property;
13. Restrictions on the use of amplified sound and compliance with noise ordinances, regulations and laws;
14. Compliance with any relevant ordinance or law and obtaining any legally required permit or license;
15. Restrictions on the sale and/or consumption of alcohol;
16. Restrictions on the number of occupants of a building or enclosed space to that which the exiting system and/or structural system can reasonably accommodate, as determined by the City's Building Official;
17. Restrictions on the use of portions of buildings or enclosed spaces based upon inadequate guards or guard rails, inadequate lighting, sanitation or ventilation, the presence of hazardous or flammable materials or the presence of potentially dangerous equipment; or
18. Any other restriction or requirement deemed necessary to ensure public safety and well-being.

C. The applicant may request an administrative review of the denial or of the conditions placed upon a permit by filing a request for administrative review in writing to the Mayor's Office within three (3) business days after the denial or issuance of the permit with conditions. The Mayor shall issue a written decision within five (5) business days of the receipt of such request.

13.13.070 Permit — Fees and Charges.

A. Review Fee. The issuance of a special event permit will require a review fee in an amount set by the City Council by periodic resolution.

B. Inspection Fee. If the issuance of a special event permit includes inspection of a private property or building or facility located thereon, an inspection fee will be required in an amount set by the City Council by periodic resolution.

C. Personnel Charges. If traffic control, security, or other City services are required as a condition of approval of the special event permit or to repair or clean public areas after an event, the applicant shall be responsible for paying these expenses at the rates established by the City Council by periodic resolution.

D. City Sponsorship. This chapter is not intended, nor shall it be construed, to prevent the City from providing financial assistance to City-sponsored events, including the waiver, payment or reimbursement of otherwise applicable special event fees and charges, provided such assistance is authorized by the mayor in a written agreement with the event sponsor, which shall include a finding by the mayor that such assistance is supported by adequate benefit to the City and/or public.

13.13.08140 Permit — Revocation.

Any permit issued pursuant to this chapter may be summarily revoked by the City at any time when, by reason of disaster, public calamity, riot or other emergency, the City determines that the safety of the public or property requires such revocation. The City may also summarily revoke any permit issued pursuant to this chapter if it finds that the permit has been issued based upon false information or when the permittee exceeds the scope of the permit. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail at the address specified by the permittee in the application.

13.13.090 Hold Harmless.

As a condition to the issuance of any permit under this Chapter, the applicant shall agree to defend, indemnify and hold harmless the City, its officers, employees and agents, for any and all suits, claims or liabilities caused by, or arising out of, any negligent acts or omissions or intentional misconduct of the applicant, its officers, agents, or employees in connection with the permitted event or activity.

13.13.100 Insurance Requirements.

The applicant shall provide general liability insurance naming the City as an additional insured, with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Said coverage shall be primary and noncontributory and shall include a waiver of subrogation. Certificates of insurance and additional-insured endorsements are to be submitted to the City for approval 14 working days prior to the day of the event. Acceptability of insurance is subject to approval by the office of the city attorney.

13.13.110 Duties of Event Sponsor.

Each permittee/sponsor of a special event shall:

- A. Comply with all the terms and conditions of the special event permit;
- B. Ensure that the person leading a parade or other event along a route, or the person in charge of any other event, is informed of the permit conditions and carries a copy of the special event permit on his or her person for the duration of the event; and
- C. Ensure that the area used for the permitted event is cleaned and restored to the same condition as existed prior to the event, immediately following the completion of the event.

13.13.120 Violation.

Any person violating any provision of this Chapter is guilty of a misdemeanor.

13.13.130 Severability.

If any provision of this Chapter or its application to any person or circumstances is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances is not affected.

13.13.140 Adoption of Special Event Guide.

The City may prepare and adopt a Special Event Guide for the purpose of implementing this code or to carry out other responsibilities as may be required by this code or other codes, ordinances of the City or other agencies. Such guide do not require approval by the City Council.


Section 3. BMC 20.10.040 Temporary uses - is hereby amended as follows:

- A. The director is authorized to approve the following temporary uses:
 - 1.-6. [No Change]
 - 7. Special Events as allowed under BMC 13.13.

PASSED by the Council this 27th day of February, 2017.


Council President

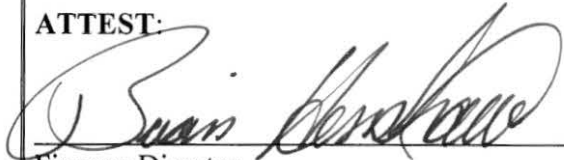
APPROVED by me this 3rd day of March 2017.



Mayor Pro Tempore April Barker

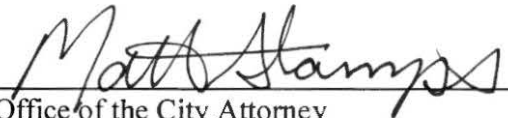


ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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