

Chapter 5.16

SPECIAL EVENTS AND ENTERTAINMENT

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5.16.010 **Finding and Purpose.** The City finds that to preserve each citizen's right of free speech and assembly, in both public and private places, the coordination of the City services, including alerting emergency services to any event of which they should be aware, is necessary to maintain the safety of the persons and properties of the participants and those electing not to participate in the event and to provide continued municipal services for the benefit of all the citizens of the City, minimal regulations are necessary to provide for the coordination of essential municipal services. These regulations are established for the purpose of regulating those events, which are intended to draw large numbers of people, involve use of public facilities or public right-of-ways, and to establish any fees required to defray the costs of assuring the public health and safety, traffic control, sanitation, emergency services, and other necessary services.

5.16.020 **Permit Required.** It shall be unlawful for any person or promoter to initiate, conduct, promote, or facilitate any public dance, concert, outdoor music festival, parade, demonstration, athletic or competitive event or temporary special sales events on public or private roadways, sidewalks, parks or places within the City until a Special Events Permit therefore has been secured.

Special Event Permits will be required for (but not limited to) the following:

- A. Public dance.
- B. Concert.
- C. Outdoor music festival.
- D. Parade.
- E. Athletic or competitive event.
- F. Temporary special sales event involving one or more unlicensed businesses not possessing an annual City business license.

5.16.030 **Exemption to Permit Requirements.** The following events shall be exempt from the Special Event requirement and the payment of a permit fee as required by this Chapter, however, the person or promoter initiating or conducting such event shall be responsible for collecting any applicable vendor(s) fee and payment of applicable admissions tax:

- A. Events conducted by public or private elementary, secondary and college-level educational institutions held at educational facilities or other public facility.
- B. Private events not open to the public.
- C. City sponsored events.
- D. Ongoing previously licensed events operating under a City permit.
- E. A business licensed event in a facility designed for the event (i.e., baseball games at the baseball field, fair and rodeo events at the fairgrounds, karate tournaments held at a private karate facility, etc.).
- F. Funeral and wedding processions.
- G. Groups required by law to be so assembled.
- H. Temporary sales conducted by businesses such as holiday sales, grand opening sales, or anniversary sales.
- I. Garage and yard sales.
- J. Political Caucuses.
- K. Demonstrations that do not interfere with the safe and normal use of a public right-of-way.
- L. Other similar events and activities which do not directly affect or use City services or property.

5.16.040 **Definitions.** The following definitions shall apply to this Chapter:

- A. "Athletic, Competitive or Festival Events" means any event to which the members of the public are invited, with or without charge, to be conducted upon the public right-of-way, public parks, places or facilities for the purpose of athletic events, such as but not limited to foot races, walk-a-thons, bicycle races, sponsored walks; mechanical competitions including, but not limited to, auto-racing, auto-cross, motor-cross or vehicle racing; and festivals or

celebrations, including but not limited to, food festivals, craft shows, art shows and special events celebration.

- B. "Concert" means any music festival, dance festival, rock festival or similar musical activity to which music is provided by paid or amateur performers or by prerecorded means, and to which members of the public are invited or admitted with or without charge, membership fee or donation.
- C. "Demonstration" means a gathering or assembly of fifty (50) or more people upon the public right-of-way, public park, place or facility for the purpose of demonstrating, protesting, informing or persuading a political or ideological point of view.
- D. "Outdoor Music Festival" means any concert to be held outdoors or outside of a walled and covered structure for the primary purpose of presenting live or recorded music or other amplified sounds for entertainment.
- E. "Parade" means an informal or formal march or procession or movement of a body of people, vehicles or things marshaled in succession upon the public right-of-way or public parks, places or facilities.
- F. "Political Caucus" means a meeting of members of a political party, or persons otherwise affiliated, for the political purposes of selecting delegates to a convention or selecting preferences for candidates running for a political office.
- G. "Promoter" means any person, group of persons, association, partnership, corporation, or firm engaged in the business of providing to any vendor, directly, or indirectly, sales areas within a temporary special event location for the purpose of using such location during the term of a temporary event permit, or sponsor of an athletic, competitive or festival event, concert, outdoor music festival, public dance, demonstration or parade.
- H. "Public Dance" means any dance held in a Dance Hall that is open to the public and which permits the entry of any person with or without the payment of an admission fee, membership fee or donation from any of the persons admitted or any dance not held open to the public, but to which fifty (50) or more people are invited or attend, except for the following:
 - 1. A dance operated, held and sponsored by and for the licensees of premises licensed for dancing pursuant to Section 5.08.020, provided the dance is in conjunction with the licensee's regular business.
 - 2. A dance operated, held and sponsored by a fraternal, veteran, service or charitable organization which is generally recognized as such and is registered as a nonprofit organization in the state of Washington, by a bona fide church, or by a political party organization eligible to be on the ballot in Washington state which is held on premises owned or regularly leased by the organization, or which is generally limited to members of the organization when held on premises licensed for dancing pursuant to Section 5.08.020 not owned or regularly leased by the organization.

3. A dance operated, held, or sponsored by a generally recognized nonprofit organization registered as such in the state of Washington when held on premises licensed for dancing pursuant to Section 5.08.020 and which is part of a special function of said organization and is not held primarily for the purposes of being a public dance.
 4. A dance operated, held or sponsored by an educational institution either in or not in conjunction with a recognized student group which is held on the premises of the institution attendance to which is restricted to students and members of the educational institution and individual guests thereof. This exception is not applicable to dances open to members of another school not co-sponsoring it as a joint activity or open to members of the public.
- I. "Sales Area" means any stall, booth, stand, space, section, unit or specified floor area within any temporary special event location where goods or services are offered or displayed by a vendor for the purpose of sale, trade, barter, exchange or advertisement.
 - J. "Temporary Special Sales Location" means an area, open to the public, wherein one or more vendors locate for the purpose of participating in a temporary special sales event.
 - K. "Temporary Special Sales Event" means the congregation of one or more vendors, who rent, lease, purchase or otherwise obtain a temporary sales area for the purpose of selling, bartering, exchanging, trading or displaying goods or services at an event which is open to the public for a period not to exceed ten (10) consecutive calendar days.
 - L. "Vendor" means any person, association, group, partnership, corporation or firm who exhibits goods or services in a temporary special sales event location, for the purpose of selling, bartering, trading, exchanging or advertising such goods or services.

5.16.050

Application. A Special Events Permit for all events covered by this Chapter, including demonstrations or parades, may be obtained from the City upon application made in writing at least thirty (30) days prior to the date on which the event is to be held, upon application forms furnished by the City. The application shall be submitted to the City Clerk.

The application form shall include, but not be limited to the following information:

- A. Name, indication that the applicant is over 18 years of age, residence or mailing address of person making the application. If the application is made by a partnership, corporation or association, the application must be signed by the President or other authorized agent thereof, and must contain the name and addresses of the officers, managers, or partners of the entity.

- B. A statement of the kind, character or type of event, which the applicant proposes to conduct, operate or carry on. Give a general description of the event, including the names of any performers, specific plans for the conduct of the event, etc.
- C. The address[es] and description[s] of the place[s] where the proposed event is to be conducted, operated or carried on and the route of travel if the event includes a parade, or utilizing multiple facilities. If the place or the event is not a public place, the owner of the premises must provide written consent for the site to be used for the proposed event.
- D. The date[s] and hours during which said event is to be conducted. Include planned or estimated times for event setup and takedown, as applicable.
- E. An estimate of the number of participants, spectators, customers or other persons expected to attend said event for each day it is conducted.
- F. A plat or map showing the location of the special event, including any route of travel and the arrangement of necessary facilities including parking, egress and ingress, fire lanes, and such other facilities as may be necessary for the safe accomplishment of the event.
- G. For events where amplification equipment is proposed to be used, the applicant shall be required to sign a statement acknowledging receipt of a copy of the City's Noise Control Regulations (BCMC Chapter 8.05) and stating applicant's intent to abide by all applicable provisions thereof.
- H. For events where admission is charged, the applicant shall furnish the name and address of the individual responsible for the collection and payment of the admission tax and the owner, lessee or custodian of the premises who shall be jointly and severally liable to the City for collection and remittance of such tax as described in BCMC 3.16.

5.16.060 Temporary Special Sales Event.

- A. In addition to the application stated in Section 5.16.050 above, the applicant for temporary special sales events shall include:
 - 1. A list of the total number of vendors participating at the temporary special sales event for which the permit is sought. The list shall include the vendor's name, address and business phone number, together with a general description of the goods and/or services offered by each vendor.
- B. Each permit issued under this Section shall be limited to the number of days approved for operation of the temporary special sales event by which the permit is issued. No permit shall be effective for more than ten (10) consecutive calendar days.

5.16.070 Public Dance. Any public dance, other than those conducted on the premises of a dance hall, and in addition to the application provided in Section 5.16.050 above, shall:

- A. Identify the date and time of the conduct of the public dance. A Permit shall be required for each date and time the public dance is to be conducted and shall only be good for the place, date and time specified in the Permit.
- B. A security plan identifying the method and qualification for providing one (1) security officer for each one hundred (100) persons upon the premises.
- C. Description of other licensed food, beverage, or services provided on the premises.
- D. A statement identifying the individual liable for the collection and payment of the City admission tax.
- E. A signed release allowing the City of Benton City to conduct a criminal history of the applicant, each principal, officer, or other person dealing with the public in the conduct of the Public Dance.

5.16.080 Concerts, Outdoor Music Festivals and Athletic or Competitive Events.

- A. In addition to the application required in Section 5.16.050 above, the applicant for a concert, outdoor music festival, athletic or competitive event shall submit an Event Facility Plan, which shall include the following:
 - 1. The estimated number of customers, spectators or participants expected to attend, the total number of tickets available for sale. The number of tickets actually sold or distributed shall be provided to public safety officials 24 hours before the event. A statement identifying the individual/entity liable for the collection and payment of the City admissions tax.
 - 2. A full and detailed outline of all show requirements, including stage, lighting, personnel, bleacher and seating requirements, canopies, power and cable needs and locations, and illumination. A drawing of the event site shall be included showing the arrangement of the above facilities.
 - 3. A plan showing the proposed location and description of the methods of providing for the following:
 - a) Security and fire protection.
 - b) Water supplies and facilities.
 - c) Food supplies and facilities.
 - d) Sanitary facilities.
 - e) Medical facilities and services including emergency medical personnel and emergency medical transport services. Emergency medical transport services shall be provided if the estimated number of spectators and participants expected to attend exceeds 500.
 - f) A feasible plan for parking.

- g) Vehicle access and onsite traffic control.
- 4. Contingent plans for numbers of spectators in excess of the estimate.
- 5. Provisions for cleanup of the premises and removal of rubbish.
- 6. Proof of premises and liability insurance in such amount and coverage as recommended by the City's insurance provider.
- B. Security plan including, but not limited to the following:
 - 1. The name of the organization providing security including the number of security officers, consisting of not less than one (1) officer for every one hundred (100) anticipated persons in attendance. The proposed security organization must be approved by the City.
 - 2. Coordination with the Benton County Sheriff.
 - 3. Provisions for control of spectators in excess of the estimated number of facility capacities and emergency vehicle access.
- C. A statement identifying the individual entity liable for the collection and payment of the City admission tax.

5.16.090 Outdoor Music Festival – Additional Requirements.

- A. In addition to the requirements in Section 5.16.050 and 5.16.090 above, the applicant for an outdoor music festival, shall provide the information required by RCW 70.108.040, which includes:
 - 1. The name of the person or other legal entity on behalf of whom said application is made, provided that a natural person applying for such permit shall be eighteen (18) years of age or older.
 - 2. A financial statement of the applicant (except where the applicant is a qualified political, religious, charitable or nonprofit organization).
 - 3. The nature of the business organization of the applicant.
 - 4. Names and addresses of all individuals or other entity having a ten percent (10%) or more proprietary interest in the festival.
 - 5. The principal place of business of applicant.
 - 6. A legal description of the land to be occupied, the name and address of the owner thereof, together with a document showing the consent of said owner to the issuance of a permit, if the land be owned by a person other than the applicant.
 - 7. The schedule of performances and programs.
 - 8. Names and address of any and all vendors, peddlers or tradesmen who will conduct a business on the festival premises. All vendors selling or distributing food items to the public must have been approved by, and received a health permit, from the local health department as necessary.

9. Written confirmation from the local health officer that he or she has reviewed and approved plans for site and development in accordance with rules, regulations and standards adopted by the state board of health.
10. A written confirmation from the Benton County Sheriff showing that traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant meeting the following conditions:
 - a) One (1) person for each two hundred (200) persons reasonably expected to be in attendance at any time during the event for purposes of traffic and crowd control. Approved security personnel shall be present on-site for the two (2) hours preceding and two hours after the scheduled event times.
 - b) The names and addresses of all traffic and crowd control personnel shall be provided to the appropriate law enforcement authority, provided that not less than twenty percent (20%) of the traffic and crowd control personnel shall be commissioned police officers or deputy sheriffs. Provided further that each traffic and crowd control person who is not a commissioned police officer or deputy sheriff shall submit an affidavit that he or she has not been convicted of a felony within the previous ten (10) years.
 - c) During the hours that the festival site shall be open to the public, there shall be a minimum of two (2) police officers or sheriff's deputies present, with at least one (1) regularly commissioned police officer employed by the jurisdiction wherein the festival site is located for every one thousand (1,000) persons in attendance, and said officer shall be on duty within the confines of the actual outdoor music festival site. The applicant shall pay the full cost of said officer to the City in advance of the event.
 - d) All law enforcement personnel shall be charged with enforcing the provisions of this chapter and all existing statutes, ordinances and regulations.
11. A written confirmation from the Benton County Sheriff that sufficient access roads are available for ingress and egress to the parking areas of the outdoor music festival site and that parking areas are available on the actual site of the festival or immediately adjacent thereto which are capable of accommodating one auto for every four persons in estimated attendance at the outdoor music festival site.
12. A written confirmation from the Department of Natural Resources, where applicable, and the District Fire Chief that all fire prevention requirements have been complied with.

13. A written statement of the applicant that all state and local law enforcement officers, fire control officers and other necessary governmental personnel shall have free access to the site of the outdoor music festival.
14. A statement that the applicant will abide by the provisions of RCW 70.108.040 (Public Health and Safety - - Outdoor Music Festivals).
15. The verification of the applicant warranting the truth of the matters as set forth in the application to the best of the applicant's knowledge, under the penalty of perjury.

5.16.100

Permit Fee. The application provided under this Chapter shall be accompanied by the payment of a permit fee as set forth in the current City Fee Schedule Resolution:

- A. Demonstrations, Parades, Public Dance.
- B. Concerts, Athletic and Competitive Events and Festivals.
- C. Outdoor Music Festivals.
- D. Temporary Special Sales Events. The permit fee shall be calculated per vendor, except for businesses already holding a current City Business License. In no event shall a total business license for such an event exceed the maximum fee set forth in the current City Fee Schedule Resolution. The fee shall be paid by the promoter for each vendor who intends to be included under the promoter's temporary special sales event permit and shall be remitted by the promoter to the City three (3) days prior to commencement of the temporary special sales event. The promoter shall be personally responsible for all sums collected, or any sum, which should have been collected from a vendor.
- E. In the event Benton County is to provide either all or a portion of the crowd or traffic control, in addition to the fee provided above, an additional fee in the amount to be determined by the Benton County Sherriff's Office, which will be calculated upon the number of police officers that must be present to provide adequate public safety, multiplied by the current overtime hourly rate paid for the highest patrolman classification in effect at the time of the event for the period of time for which traffic and/or crowd control will be necessary.
- F. The permit fee (other than the City's costs for crowd and/or traffic control) may be waived by the City Council upon application sponsored by a bonafide nonprofit corporation, charity, religious or political organization.

No fee shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution, or the Washington Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include: the nature of the event; the extent to which the fee creates an unreasonable burden upon constitutionally

protected activities; the extent of commercial activity, such as the sales of goods, food, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised in the conduct of previous events sponsored by the same promoter.

- G. Bond. The City may require the posting of a bond of sufficient amount to insure the satisfactory compliance with the conditions of permit issuance, including the costs of cleanup and repairs.
- H. Nothing herein shall relieve any promoter or applicant from complying with all other required Federal, State, and local regulations, fees and licensing requirements.

The permit fee shall be paid prior to the event and shall not be refundable.

5.16.110 **Procedure for Application Approval.** Applications shall be made to the City Clerk. All applications for Permits issued under this Chapter shall be made no less than thirty (30) days prior to the scheduled event, except in the case of outdoor music festivals which shall be submitted not less than ninety (90) days prior to the first scheduled day of the event. The completed application and required documents shall be circulated by the City Clerk for review and recommendation to the Benton County Sheriff's Office and the District Fire Chief. Based upon the recommendation of the said agencies, the City Clerk may issue a permit, deny a permit, or set conditions, limitations or restrictions that must be met before a permit may be granted. The City shall timely process a complete application and promptly respond to the applicant.

The denial of any permit or the imposition of any conditions, limitations or restrictions incident to the granting of a permit, shall be based solely upon those requirements reasonably necessary to protect the peace, health, safety and welfare of those both participating in the event, others using the public facilities and the general public. No permit shall be granted, conditioned or denied based upon the content of the applicant's stated purpose, expression of lawful speech because of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.

If conditions are imposed, the applicant shall furnish proof that all conditions have been met before any permit may be issued.

The permit shall be posted in a conspicuous place on the premises where the event is conducted. No permit issued pursuant to this Chapter shall be transferable to any entity or person other than applicant, or removed to another location, date or time than that stated on the application.

5.16.120 **Appeal.** Any person aggrieved by the issuance, denial, or conditions imposed upon the permit, may seek review of the determination by the Mayor, or his/her pro tem, within five (5) days of the determination.

At such hearing, the applicant shall have the burden of proof showing that the determination was arbitrary, capricious, or contrary to the requirements of this Chapter.

The determination of the Mayor, or his/her pro tem, shall be final unless appealed to the City Council within ten (10) days of the Mayor, or his /her designee, determination.

5.16.130 **Revocation of Permit.** Notwithstanding any of the provisions of this Chapter, the City may issue an emergency order revoking a permit upon a failure to comply with the terms and conditions of the permit, or when the Benton County Sherriff, the District Fire Chief, or the Mayor, or his/her pro tem, believes that such action is necessary for the immediate preservation of the public peace, health, safety or general welfare. The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the emergency necessitating such action. The emergency order shall be effective immediately upon issuance and service, whether written or verbal, upon the permittee and participants. Failure to comply with any conditions of approval or representations made within the application documents shall be grounds for immediate revocation of the Permit.

5.16.140 **Crowd And Traffic Control.**

- A. In reviewing each application, the City shall determine the minimum number of police officers and the number of hours for each officer to be in attendance at the event for the purpose of providing crowd and traffic control.
- B. At the applicant's request, the City shall determine the minimum number of private security officers and the number of hours for each officer to be in attendance at the event for the purpose of providing traffic and crowd control. This shall be in lieu of the requirement of the Benton County Sheriff's officers. The applicant may request a computation of the number of police officers and their hours in combination with the number of private security officers and their hours in lieu of having security provided entirely by the Benton County Sheriff's Office or entirely by private security officers.
- C. The number, duties, and gender of police or security officers that may be required by the City for approval shall be based upon the following:
 - 1. The type of event and the estimated attendance;
 - 2. The design and location of the premises;
 - 3. The past history of disorder, criminal events and demand for safety services associated with prior events held by the applicant, the type of event, or the premises in which it is located;
 - 4. The past record of the private security agency providing crowd and traffic control for such events; and
 - 5. The physical abilities and training of the police officers or private security officers assigned to the event.

- D. Police and Fire officials shall be provided necessary access to the event premises. Failure to allow access shall be grounds for permit revocation.

5.16.150 **Public Conduct During Special Events Activity.**

- A. It is unlawful for any person to unreasonably obstruct, impede, or interfere with any special events activity or with any person, vehicle, or animal participating in such special events activity for which a permit has been granted under this Chapter.
- B. The Mayor, Benton County Sheriff's Office, or their designee, shall have the authority, when reasonably necessary, to prohibit or restrict parking of vehicles along the street, highway, roadway, alley way, or any part thereof, constituting a part of the route of the special events activity, or the use of public parks or other public facilities.

5.16.160 **Cleanup Deposit.**

- A. Any special event which may result in a generation or waste of likely to create a substantial need for cleanup on public property, may be required to provide a cleanup deposit prior to the issuance of the special use permit. Cleanup deposit shall be in an amount reasonably anticipated to clean any waste or debris incident to the special event as determined by the Mayor.
- B. The cleanup deposit shall be returned after the event if the area used for the permitted event has been cleaned and restored to the same condition as existed prior to the event. If the property used for the event has not been properly cleaned or restored, the applicant or promoter shall be billed for the actual costs by the City for cleanup and restoration. The cleanup deposit shall be applied toward the payment of this bill. Unused deposit funds shall be returned within thirty (30) days after the event.

5.16.170 **Effect and Severability.** Nothing in this Chapter shall be construed as altering or relieving any person or entity from meeting any other permit or license requirement under the Benton City Municipal Code or any requirement of State or Federal law, including but not limited to any required business license, health permit or State electrical permit. None of the provisions of this Chapter are intended, nor shall they be construed, to create or waive any legal obligation or duty upon Benton County or its agents, the Health District, the Department of Natural Resources or the District Fire Chief to carry out, enforce, or act in furtherance of the provisions herein. If any provision herein is determined to be unlawful, the other provisions shall remain in force insofar as is reasonably practicable. (Ord. 873, Aug. 2010.)