

## ORDINANCE #21-02

### AN ORDINANCE ADOPTING AND ENACTING A SPECIAL EVENTS ORDINANCE FOR THE COUNTY OF ESSEX, VIRGINIA

WHEREAS, after a duly advertised and held public hearing on April 13, 2021, the Board of Supervisors of Essex County believes it is appropriate to establish, adopt and enact a special events ordinance for the County of Essex, Virginia; and amend the Essex County Code accordingly;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that the Board of Supervisors of Essex County, Virginia, does this 13<sup>th</sup> day of April 2021, establish, adopt and enact the following special events ordinance for the County of Essex, Virginia, and amends the following portions of the Essex County Code, to read as follows:

#### SPECIAL EVENTS ORDINANCE

##### Chapter 10—BUSINESS REGULATIONS

##### Article IV—Special Event Permits

##### Sec. 10-90. - Purpose of article.

The purpose of this article is to protect the public health, safety, and welfare of the resident of Essex County by providing reasonable regulations for special events. Accordingly, this article sets forth the application and review process for special event permits to minimize any negative impacts on event participants, spectators, county infrastructure, and the public.

##### Sec. 10-91. - Permit required; violations.

(a) No person shall stage, promote, advertise, or hold any special event as defined in Sec. 10-92 unless a special event permit has first been obtained from the county administrator or their designee. Any person who violates any provision of this article shall be guilty of a Class 1 misdemeanor. Each day of violation of any provision of this article shall constitute a separate offense.

(b) It shall be unlawful to knowingly make a false application for a permit required under this article or to knowingly breach any condition of issuance set forth in such permit.

##### Sec. 10-92. - Definition of special event.

A special event means either:

(a) a gathering of 50 or more persons at any one time, to be held in an open space not within a permanently enclosed structure for the purpose of listening to, viewing, or participating in entertainment that is open to the public which results in revenue through donations, ticket sales, or food and beverage sales to individual attendees. "Entertainment" includes but is not limited to fairs, festivals, carnivals, circuses, fund raisers, exhibitions, performances, rides, races,

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parades, fireworks, events, concerts, celebrations, tours, shows, tractor/truck pulls, and outdoor dances.

(b) an event primarily involving non-commercial expression protected by the First Amendment of the United States Constitution (such as picketing, demonstrating, parading, political marches, speechmaking, vigils, walks, etc.) conducted on public property or in a public right of way, the conduct of which has the effect, intent, or propensity to (1) involve 50 or more persons at any one time or (2) occupy or prevent the ordinary use of a roadway, driveway, or street.

### **Sec. 10-93. - Compliance with other laws, ordinances, and regulations.**

Nothing contained in this article shall relieve the applicant, promotor, or any other person otherwise organizing any special event from other requirements imposed by Essex County and state and federal law. Any applicable legal requirement that conflicts with a special use permit shall supersede permission granted by such special use permit. A special use permit shall not be required where authority to conduct a special event is otherwise granted.

### **Sec. 10-94. - Application for permit.**

(a) Application for a special event permit shall be made in writing and submitted to the county administrator, or their designee, at least forty-five (45) days prior to the date of the event. The county administrator, or their designee, may require notice to be provided to adjacent property owners and residents via certified U.S. Mail when a special event may significantly impact the surrounding areas.

(b) Each application for a permit shall be submitted on a form approved by the county administrator, or their designee. Such form shall include:

- (1) The name and address of the applicant, the nature of the event, and a list of the invited speakers and promoters.
- (2) The date(s), time, and location of the event, including set up and clean up periods.
- (3) The applicant's best estimate of the number of persons expected to attend the event.
- (4) A plan for adequate sanitation facilities and disposal of garbage and sewage generated by the event.
- (5) A plan for adequate provision of food and water at the event.
- (6) A plan for the provision of emergency medical services.
- (7) A plan to provide adequate fire protection for the event.

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(8) A plan for adequate parking facilities and traffic control in and adjacent to the event area.

(9) A plan for adequate crowd control and security to prevent personal injury to event attendees and damage to property.

(10) A statement signed by the applicant and property owner which authorizes the county and its lawful agents, employees, designees or law enforcement officers to enter the property upon which the event will be held at any time prior to or during the event for the purpose of determining compliance with the provisions of this article or any state and local statutes, ordinances and regulations.

(c) An application fee of \$150 shall be paid to the county within 14 days after the application for the permit is filed. Failure to pay the application fee means the application is incomplete. A fee shall not be required for applications submitted by any charitable, religious, volunteer, governmental, educational, civic, or historic organization when the event is for the benefit of the citizens of the county and approved by the county administrator.

(d) The county administrator, or their designee, may waive any or all of the requirements and conditions contained in this ordinance.

### **Sec. 10-95. - Grant, denial of permit.**

(a) Upon receipt of a completed application for a permit, the county administrator, or their designee, shall approve, conditionally approve, or deny the application within 30 calendar days and give the applicant(s) written notice of the decision. If the application is denied, the county administrator, or their designee, shall provide the reasons for the denial in writing. Prior to receiving a permit to conduct a special event, any applicant may be required to meet conditions in addition to those specified in this chapter if deemed necessary by the county administrator, or their designee, to protect the health, safety, and general welfare of the persons attending such gathering, adjacent property owners, or the general public.

(b) Where a special event also requires federal, state, or other local permits, a conditional permit may be issued to provide preliminary proof of local approval. Before a final permit is granted, an applicant who is granted a conditional permit for any special event shall provide a final site plan that includes proof of other federal, state or local approvals, licenses, or permits as required by law.

(c) The county administrator, or their designee, shall authorize the issuance of a permit for a special event if they find:

(1) That the special event will be held at a location which complies with and meets all of the health, zoning, fire and safety requirements, and standards of the laws of the Commonwealth and ordinances of this county applicable thereto;

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(2) That the information and documents required by this chapter have been filed with the county administrator or their designee; and

(3) That it appears the proposed special event will be conducted in full accord with all requirements of this chapter and will not substantially jeopardize, adversely affect, endanger, or otherwise constitute a menace to the public health, safety, or general welfare of the residents of the county.

### **Sec. 10-96. - Recurring special events.**

The county administrator may approve, in their discretion, quarterly or annual permits for certain venues within the county. If the applicant applies for and is granted such a permit, they are not required to submit an application or an application fee for each event under the permit. A quarterly or annual permit is subject to the following requirements:

(a) The venue has previously been granted a special event permit and been used for a substantially similar special event;

(b) The proposed series of special events are all substantially similar in nature; and

(c) The proposed special events will all occur at substantially the same location.

### **Sec. 10-97. – Applicant to pay costs of event and deposit funds in advance of special event.**

(a) The applicant is required to pay all costs incurred by the County as a result of the event. This includes, but is not limited to, costs for police officers or security, emergency medical services, and fire protection (if applicable). These costs will be determined by the county administrator, or their designee, based on the estimate of the number of personnel required and the length of the event.

(b) The county administrator may require the applicant to make a deposit with the treasurer to pay for the cost of county services to meet the requirements of the approved application. The actual cost of such services shall be paid to the county from the deposit and any balance remaining after payment of such costs shall be refunded to the applicant. Within thirty (30) days of the event, the applicant will pay the County any additional amount needed to fully cover the actual costs of the event.

### **Sec. 10-99. - Revocation and public safety cancellations.**

(a) The county administrator, sheriff, fire official, building official, emergency services director, or their designees, may revoke a special event permit at any time if any of the following occurs:

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(i) Violation of any condition of the special event permit, or other federal, state, or local law; or

(ii) Operation or continuation of the special event constitutes a public nuisance or hazard to the public health, safety, or general welfare. Grounds for cancellation include, but shall not be limited to, severe weather events, unruly or violent crowds, and crowds in excess of property capacity or permit approval.

(b) If a special event permit is revoked, the event must be immediately canceled and all activities related to the event must be immediately terminated. The county will not issue any refunds if an event is canceled and shut down pursuant to this section, except as provided in subsection (d) below, and the county shall not be liable for any additional expenses incurred by the event organizer as a result of cancellation.

(c) A special event canceled by public safety officials due to a severe weather event may be rescheduled, subject to approval by the county administrator or their designee. An event rescheduled under this section may not require an additional application fee.

### **Sec. 10-100. - Permit not transferrable.**

No permit issued under the provisions of this chapter shall be transferrable.

### **Sec. 10-101. – Severability.**

If any portion of this article is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article and such invalid provisions or portions thereof shall be severable.

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## **Chapter 2 – ADMINISTRATION**

### **Article I – In General**

#### **Sec. 2-6. –Off-Duty Employment of Police Officers and Fire Protection and Emergency Medical Services Workers.**

As authorized by Section 15.2-1712 of the Code of Virginia, officers of the Essex County Sheriff's Department will be permitted to engage in off-duty employment which requires the use of their police powers. The Sheriff of Essex County shall adopt reasonable rules and regulations for off-duty employment and all off-duty employment shall be performed in accordance with such rules and regulations. Additionally, pursuant to County policy, employees of the County who are fire protection and emergency medical service workers may engage in off-duty employment.

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**AND, BE IT FURTHER ORDAINED AND ENACTED**, that this ordinance shall take effect immediately.

**ADOPTED:** This 13<sup>th</sup> day of April 2021.


**AYES:** Johnson, Akers, Gill, Magruder, Smith;

**NAYS:** N/A

**ABSTENTIONS:** N/A

**ABSENT:** N/A

**ATTEST:**



Michael A. Lombardo, Clerk

Board of Supervisors of the County of Essex, Virginia

