

ORDINANCE NO. 2024-05

AN ORDINANCE AMENDING CHAPTERS TWO (ADMINISTRATION) AND (THREE (POLICE REGULATIONS) TO CLARIFY THE EVENT PERMITTING PROCEDURE IN THE BOROUGH OF FLEMINGTON

WHEREAS, the Borough Council wishes to clarify the event permitting procedure as found in the Borough's municipal code;

WHEREAS, procedural framework for this procedure is found in Chapters Two (Administration) and Three (Police Regulations) of the municipal code of the Borough of Flemington, specifically in Sections 2-25 (The Borough of Flemington Department of Community Event Planning) and 3-16 (Special Events);

BE IT THEREFORE ORDAINED, by the Borough Council of the Borough of Flemington in the County of Hunterdon and State of New Jersey that Sections 2-25 and 3-16 of the Municipal Code thereof are amended as follows:

SECTION I.

Section 2-25.1 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

The Borough of Flemington Department of Community Event Planning shall consist of the following:

- a. One director of community event planning;
- b. ~~Such administrative and support personnel as shall be designated to the department by the Mayor and Borough Council~~ **The Director of Public Works, or their designee;**
- c. **The Borough Clerk, or their designee;**
- d. **The Chief of Police, or their designee;**
- e. **The Emergency Management Coordinator, or their designee**
- e. **e. Such volunteers as may be recruited by the director.**

SECTION II.

Section 3-16.1 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

- a. "Chief of police" shall mean the chief of police of the Borough of Flemington.

- b. "Special event" shall mean any parade, march, ceremony, show, demonstration, rally, vigil, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, sidewalk, park or other public place in the Borough of Flemington.
- c. "Special event permit" shall mean a permit as required by this section.
- d. "Person" shall mean any person, firm, partnership, association, group of two or more people, corporation, company or organization of any kind.
- e. **"Department of Community Event Planning" shall mean the group specified by Chapter 2 Section 25.1**

SECTION III.

Section 3-16.2 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

No person shall engage in, participate in, aid, form or start any special event, unless a special event permit shall have been ~~obtained from the chief of police~~ **approved by the Borough of Flemington.**

a.—This section shall not apply to the following:

- 1. A governmental agency acting within the scope of its functions; or
- 2. Any person acting under regulatory or statutory authority.

SECTION IV.

Section 3-16.3 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

A person seeking issuance of a special event permit shall file an application with the ~~chief of police~~ **Borough Clerk** on forms approved by ~~such officer~~ **by the Chief of Police, Director of Public Works and the Fire Marshal.**

- a. An application for a special event permit shall be filed with the ~~chief of police~~ **Borough of Flemington** not less than ~~30~~ **90** days before the event date if the event requires street closures **Borough services (POLICE, PUBLIC WORKS, FIRE MARSHAL, FIRE, EMS)**, otherwise ~~6~~ **45** days ~~when no more than 180 days before the date of the event.~~ **prior to the event.**
- b. The application for a special event permit shall set forth the following information:
 - 1. The name, **street address, email 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 of any kind, the name of the organization and of the authorized and responsible heads of such organization;
 3. The name, address and telephone number of the person who will be the special event chairman or organizer and, if different, who will be responsible for the conduct of the special event;
 4. The date and **rain date if applicable**, when the special event is to be conducted;
 5. The route to be traveled, the starting point and the termination point or, if the special event is going to be in a fixed location and not moving, the location where the special event will be held,
 6. The ~~approximate~~ number of persons who will constitute or partake in the special event;
 7. If animals will be included in the special event, the specific type of each animal and whether each is domestic or wild;
 8. The number and description of the motor vehicles or any other type vehicle expected to be used in the special event;
 9. The specific times when such special event will start and terminate;
 10. A statement as to whether the specific event will occupy all or only a portion of the width of the sidewalk(s) or street(s) proposed to be traversed or on which it will be located;
 11. The location of the street(s) or any assembly area(s) to be used for the special event;
 12. The time at which units of the special event will begin to assemble at each such assembly area;
 13. ~~The interval of space to be maintained between units of the special event if the event will be moving;~~
 14. If the special event is designed to be held by, or on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the special event, authorizing the applicant to apply for the permit on its behalf;
 15. A statement of the purpose of the special event; and
 16. Any additional information which the Chief of Police, **Director of the department of Public Works, Fire Marshal or Borough Clerk**, shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- c. If the special event will use or traverse any State or county road or highway or be located on any Federal, State or county property within the Borough of Flemington, the application

shall be accompanied by a written consent or other written authorization to hold such special event on the date and at the time requested, issued by the public agency or body having jurisdiction and control over said road, highway or property. If the event will require the closing of a Borough street, the application shall be accompanied by a Resolution of Consent adopted by the Borough Council.

- d. When it reasonably appears that the applicant for a special event permit could not have complied with § 3-16.3 by filing the application for the special event permit not less than ~~six~~ **90 or 45 (as applicable pursuant to Section 3-16.3(a))** days before the date on which it is proposed to conduct the special event, the chief of police shall have the authority to consider any application hereunder which is filed within such ~~six-day~~ **90 or 45 (as applicable pursuant to Section 3-16.3(a))** period in the same manner as if it had been timely filed, provided the applicant sets forth the good faith reasons it could not timely comply in its written application for the permit.

SECTION V.

Section 3-16.4 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that it is either (1) for any special event involving expressive activity protected by the New Jersey Constitution or United States Constitution and includes less than 25 people, provided the applicant signs a verified statement that he in good faith believes the event's purpose involves such expressive activity and will not require the closure of or substantially block or interfere with the use of a sidewalk, street, alley or other public right-of-way or other property owned or controlled by the Borough of Flemington or (2) that:

- a. The conduct of the special event will not substantially interrupt the safe and orderly movement of other vehicular or pedestrian traffic contiguous to its route or location;
- b. The conduct of the special event will not require the diversion of so great a number of police or fire officers of the Borough of Flemington to properly police or protect the location or line of movement and the areas contiguous thereto, as to prevent normal police or fire protection for the Borough;
- c. The conduct of such special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Borough of Flemington, other than that to be occupied by the location or line of movement and areas contiguous thereto;
- d. The concentration of persons, animals and/or vehicles at the location or assembly points of the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such location or assembly area(s);
- e. ~~The conduct of the special event will not interfere with the movement of firefighting~~

~~equipment en route to a fire;~~

- f. The special event either will not move or is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and
- g. The special event is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

SECTION VI.

Section 3-16.6 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

~~The chief of police shall notify the applicant for a special event permit of his decision on such application within 72 hours of the time that the application was filed.~~ **Borough Clerk shall provide the applicant with a non-binding approval and an estimated cost for services, if required, or a denial within 7 business days from submission date of the completed application. If a non-binding approval is granted, the application will continue to be vetted for compliance and a formal approval will be issued.**

SECTION VII.

Section 3-16.7 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

The Chief of Police, **Director of the department of Public Works, Fire Marshal and/or Borough Clerk** also may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place, and manner of the event and such requirements as are 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. Such conditions include the following:

Alteration of the date, time, route or location of the event proposed in the event application;

- b. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route;
- c. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event to only a portion of a street;
- d. Requirements for the use of traffic cones or barricades;
- e. Requirements for provision of first aid or sanitary facilities;
- f. Requirements for the use of event monitors and providing notice of permit conditions to event participants;
- g. 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 by the Borough of Flemington Fire Department;

- h. Compliance with animal protection ordinances and laws;
- i. Requirements for use of garbage containers and the cleanup and restoration of Borough of Flemington and/or any other affected property;
- j. Restrictions on use of amplified sound;
- k. An application for a special event permit to conduct a block party may be conditioned on notice and obtaining written approval of 50 percent of the dwellings along the affected street(s);
- l. Compliance with any relevant ordinance or law and obtaining any legally required permit or license.
- m. Requirements of Borough Services, such as but not limited to (Police Protection, Public Works Services, Fire Marshal Services, Fire Services and/or EMS services)**

n. Equipment rentals

SECTION VIII.

Section 3-16.8 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

Immediately upon the issuance of a special event permit, notice thereof shall be forwarded by the ~~chief of police~~ **Borough Clerk** to the following:

- a. The Mayor;
- b. ~~The clerk of the Borough~~ **Chief of Police**;
- c. The fire chief; and
- d. The director of the department of public works.

SECTION IX.

Section 3-16.9 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

Each permit shall state the following information:

- a. The starting time and ending time;
- b. ~~The minimum speed, if applicable;~~

- c. The maximum speed, if applicable;
- d. ~~The maximum interval of space to be maintained between the units of the special event, if applicable;~~
- e. The location of the special event or the portions of the street(s) to be traversed that may be occupied by the special event;
- f. ~~The maximum length of the special event in miles or fractions thereof, if applicable;~~
- g. Such other information as the chief of police, **Borough Clerk, Director of Public Works or Fire Marshal** reasonably shall find necessary to the enforcement of this special events ordinance.

SECTION X.

Section 3-16.12 is hereby amended as follows (struck through portions are to be removed; bolded and underlined portions are to be added):

Any person who violates any provisions of this section shall, upon conviction thereof, be punished by a fine not exceeding ~~\$500~~ \$1,000 or by imprisonment in the county jail for a term not exceeding 90 days, or both.

SECTION XI.

Section 3-16.13 is hereby inserted into the municipal code (all text novel):

Section 3-16.13 Cancellation.

- a. The Borough of Flemington reserves the right to cancel any events if proper submissions are not received within 7 days of the event.
- b. The Borough reserves the right to cancel any event at any time.
- c. An applicant reserves the right to cancel the event up to 14 business days prior to the event date without being held responsible for costs of services. Any events cancelled by the applicant less than 14 business days prior to the event date are required to pay for services.

SECTION XII.

Section 3-16.14 is hereby inserted into the municipal code (all text novel):

Section 3-16.14 Fees.

- a. The application fee shall be \$25.00 for applications received within the specified time frames set forth in Section 3-16.3, and \$75.00 for applications submitted in less than the

specified time frames.

- b. The Borough of Flemington may charge a fee of \$500.00 if proper submissions are not received within 7 days of the event.
- c. An invoice for proposed minimum services from the Flemington Borough Department of Public Works, Flemington Borough Police, Flemington Borough Fire Marshal, Flemington Borough Fire Department and Flemington Raritan EMS, or any additional service as specified by the Borough of Flemington shall be issued to the applicant not less than 30 days prior to an event.
- d. The invoice for the proposed services shall be paid 15 days prior to the event. Failure to pay for services will result in the event being cancelled.
- e. Upon completion of the event, subsequent invoices may be sent for services performed in addition to the minimum service fees that were paid prior to the event. Services such as but not limited to: additional staffing required, additional hours worked prior to the event or upon completion of the event, additional equipment. Final invoices shall be sent within 15 days of the event completion and are payable within 30 days of receipt. Balances left unpaid shall be subject to interest at a rate consistent with tax collection rates. Failure to pay invoices in full shall prevent an applicant from holding subsequent events.

SECTION XIII. If any part of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

SECTION XIV. Should any section, paragraph, sentence, or clause of this ordinance be declared unconstitutional or invalid for any reasons, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect and, to this end, the provisions of this ordinance are hereby declared severable.

SECTION XV. This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law.

Introduced: March 25, 2024

Adopted:

ATTEST:

Marcia A. Karrow, Mayor

Carla Conner, Borough Clerk