

ORDINANCE NO. 05-21 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ADDING CHAPTER 10.32 OF THE CITY OF RICHMOND MUNICIPAL CODE
ENTITLED "SPECIAL EVENT PERMIT" ORDINANCE**

WHEREAS, the City Council recognizes the community benefits provided by regulated and safe events on public streets, parks and city facilities; and

WHEREAS, these gatherings provide opportunities for the exercise of First Amendment rights, cultural enrichment, promote economic stimulus to local businesses and enhance community identity; and

WHEREAS, public assemblies, parades and other special events also require a commitment of significant city resources, including public safety to regulate vehicular and pedestrian traffic, public works crews to regulate maintenance impacts, enforcement staff to issue citations, and administrative staff to monitor city costs and revenues; and

WHEREAS, the special event permit documents the requirements for reasonable time, place and manner regulations while protecting public health, safety and welfare;

THEREFORE, LET IT BE RESOLVED THAT NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND does ordain as follows:

SECTION 1.

Chapter 10.32 entitled "SPECIAL EVENT PERMIT ORDINANCE" of the City of Richmond Municipal Code is hereby added as follows:

Sections:

10.32.010	Purpose.
10.32.020	Definitions.
10.32.030	Administrative Regulations.
10.32.040	Special Event Permit Required.
10.32.050	Exceptions to Special Event Permit.
10.32.060	Time for Filing Application for Special Event Permit.
10.32.070	Content of Special Event Permit Application.
10.32.080	Issuance of Permit.
10.32.090	Permit Conditions.
10.32.100	Fees.
10.32.110	Action on Permit.
10.32.120	Revocation or Suspension of Permit.
10.32.130	Appeals.
10.32.140	Insurance.
10.32.150	Indemnity.
10.32.160	Unlawful to Use City Name Without Authorization.
10.32.170	Interfering with Activity Prohibited.
10.32.180	Penalties.

10.32.010 Purpose.

This chapter establishes standards and procedures for the issuance of permits for public assemblies, parades, and other special events in the City of Richmond. The purpose of this

chapter is to protect the public health and safety of the citizens of Richmond, to preserve the rights of individuals to engage in expressive activity protected under the First Amendment through reasonable time, place, and manner regulations of those activities, to prohibit illegal activities from occurring at the events, to maintain parks and streets, to provide for the recovery of costs to the city directly flowing from these events, and to provide timely notice to the city of the need for additional public safety and other services.

10.32.020 Definitions.

“Expressive Activity” means any assembly, the sole or principal object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of a particular opinion, view, or idea, and for which no fee or donation is charged or required as a condition of participation in or attendance at such activity. It includes public oratory and distribution of literature.

“Special Event” means:

- A. Any organized parade, procession, demonstration or assembly which may include persons, animals, vehicles or any combination thereof, which is to assemble or travel in unison on any street, sidewalk or other public right-of-way owned or controlled by the city; or
- B. Any organized assemblage of seventy-five or more persons at public open spaces, including sidewalks or streets, in which the city needs to regulate competing uses or provide for additional public safety or other public services; or
- C. Any other organized activity occurring inside city facilities that includes seventy-five or more persons which is likely to significantly interfere with the use of the City property. Facility Permit Rental is separately required for use of the pool, community, and convention centers. A facility permit for renting pools, community centers, and conventions centers can be obtained separately from the Recreation Division of the Community Services Department
- D. Examples of special events include, but are not limited to, concerts, parades, circuses, fairs, festivals, block parties, street fairs, community events, weddings, quinceañeras, repast, mass participation sports (such as marathons and other running events), athletic or sporting events, and community celebrations and observances conducted on public property or public rights-of-way .

”Special Event Permit” means a permit issued under this chapter.

“Spontaneous Events” means any Special Event for the purpose of Expressive Activity, which is organized in response to news or affairs coming into public knowledge less than forty-eight hours prior to the assembly. Events which require advance planning such as recreation events, fairs, festivals, carnivals, ticketed events or events that require the placement of structures shall not be considered a spontaneous event.

10.32.030 Administrative Regulations.

The City Manager or his/her designee is authorized to promulgate administrative regulations that are consistent with the requirements set forth in this chapter. The implementing regulations shall be publicly available on the City’s website and at the Community Services Department.

10.32.040 Special Event Permit Required.

Except as otherwise provided in this chapter, no person may hold, sponsor, conduct, promote, maintain, or manage a Special Event unless a Special Event Permit has been first obtained from the Recreation Division of the Community Services Department. Issuance of a Special Event Permit does not obligate or require the city to provide city services, equipment or personnel in support of any Special Event. The Recreation Division is authorized to issue

permits for Special Events occurring within the city limits pursuant to the procedures established in this chapter and is authorized to coordinate the issuance of a Special Event Permit with other city departments and public agencies.

10.32.050 Exceptions to Special Event Permit.

A Special Event Permit is not required for any of the following activities:

- A. For any activity or event conducted by or on behalf of a public or private school, college or school district, the State of California or other governmental entity so long as the activity or event is not conducted on City property.
- B. Spontaneous Events, provided that no fee is charged as a requirement for participation or attendance. If practicable, the organizer shall give notice to the Chief of Police at least four hours prior to the Spontaneous Event and provide an estimate of the approximate number of people attending, even if the event takes place on a Saturday or Sunday.

10.32.060 Time for Filing Application for Special Event Permit.

- A. Completed applications for Special Event Permits for events in which Expressive Activity is the main purpose of the event, shall file with the Recreation Division of the Community Services Department not less than two business days before the day of the Special Event.
- B. Completed applications for Special Event Permits for all other activities must be filed with the Recreation Division of the Community Services Department at least thirty (30) calendar days prior to the event.
- C. All applications shall be submitted with payment of a nonrefundable application fee. Any application submitted without such fee shall be deemed incomplete. The fee shall be reasonably equivalent to the administrative cost of processing the application. Fees and payments required under this chapter shall be in addition to any other license, permit or fee required under any other chapter of the Richmond Municipal Code, any other city regulation, or under any other county, state or federal law or regulation, such as an ABC license from the state or food permit from the county.

10.32.070 Content of Special Event Permit Application.

The application for a Special Event Permit shall include the following:

- A. The name, address, email address, and telephone number, and if applicable also the website, social media, of the applicant and/or event organizer.
- B. A certification that the applicant will be financially responsible for city fees and costs that may be incurred as a result of the event.
- C. If the Special Event is designed to be held by, on behalf of, or for any organization other than the applicant, the applicant shall file a written communication from such organization authorizing the applicant to apply on its behalf and certifying that the applicant will be financially responsible for the city costs or fees incurred.
- D. A statement of the purpose of the Special Event.
- E. A statement of fees to be charged for individuals to attend or participate in the Special Event.
- F. The proposed location and site of the Special Event, including a map and written narrative of the route, if applicable.

- G. The date and time that the Special Event is to be conducted.
- H. The proposed site for any disbanding area.
- I. The approximate number of people, animals, or vehicles that will constitute the Special Event and the manner and speed in which they will travel, if applicable.
- J. The kinds of animals anticipated to be part of the Special Event.
- K. A description of the types of vehicles to be used in the Special Event.
- L. The number of bands and the nature of any equipment to be used to produce sounds or noise, which must all be in compliance with the Richmond Municipal Code Chapter 7.64 (Sound Trucks and Public Address Systems Ordinance) and Chapter 9.52 (Community Noise Ordinance)
- M. The number and location(s) of portable sanitation facilities, including handicap accessible sanitary facilities.
- N. If applicable, the type of security that will be provided to prevent unlawful conduct by participants and attendees and the number of people proposed to monitor or facilitate the Special Event and provide spectator or participant control and direction.
- O. Provisions for first aid and/or emergency medical services based on the risk factors of the Special Event.
- P. A statement as to whether the applicant will have insurance, when applicable, and, if so, information regarding such coverage.
- Q. Any special or unusual requirements that may be imposed or created by virtue of the proposed Special Event.
- R. Whether the purpose of the Special Event is “Expressive Activity.”
- S. Whether any food or beverages, including alcoholic beverages, if authorized at the city facility, will be sold at the Special Event.
- T. Anticipated parking needed and parking plan for the Special Event; a proposed plan for seating for the Special Event, if applicable, and the maximum legal occupancy of the proposed premises, if applicable and a security plan for control of pedestrian and vehicular traffic including the provision and use of traffic cones or barricades.
- U. A detailed floor plan and site plan of the premises showing the building interior and exterior grounds, including parking spaces, amusement ride location, seating arrangements, dance floor area, bar location, fire exits, and the dimensions of each portion with the layout of the Special Event, when applicable.
- V. Trash, recycle, and compost collection plan for the event and an off-site disposal plan, if applicable. Compliance with all State Mandates and City Ordinances related to recycling and food ware ([RMC 9.17.](#)).
- W. The manner of providing notice of the permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the Special Event.
- X. Such other information pertaining to public health and safety that the applicant may wish to include.

10.32.080 Issuance of Permit.

A. The Recreation Division of the Community Services Department is required, after coordinating with other city departments, to issue the Special Event Permit unless one or more of the following reasons prohibits the issuance of a permit:

1. The event is reasonably likely to substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its route.
2. The concentration of people, animals, and vehicles is reasonably likely to substantially interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets.
3. The event is reasonably likely to substantially interfere with any construction, maintenance, or development of a street or other public right-of-way or of a public facility scheduled to take place, or a previously granted encroachment permit.
4. The event is reasonably likely to require the diversion of a great number of police employees from their normal duties and thereby prevent reasonable police protection to the remainder of the city.
5. The event will interfere with any other Special Event for which a permit has already been granted, or will occur so close in time and place to another Special Event so as to cause undue traffic congestion or prevent the police department from meeting the needs of its services for both events.
6. The proposed area for the event cannot physically accommodate the number of participants expected as represented in the application.
7. The information contained in the permit application is incomplete or any required fees were not provided.
8. The applicant or the person or entity on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage, or has other outstanding and unpaid debts to the city, or has previously had a permit revoked in Richmond for violation of permit conditions or for unlawful conduct relating thereto, and it is reasonably believed that similar violations or unlawful conduct will again occur.

B. In determining whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the level or nature of hostility or other reactions which may be aroused in the public by the content of speech or message conveyed by the event.

10.32.090 Permit Conditions.

The Recreation Division of the Community Services Department may impose reasonable time, place, and manner conditions that are necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the health and safety of people and property, and provide for adequate control of pedestrian and vehicular traffic; provided, that such conditions do not unreasonably restrict the right of free speech protected by the California or United States Constitutions.

Such conditions may include, but are not limited to, the following:

- A. Conditions concerning the area of assembly and disbanding of the event.
- B. Conditions concerning accommodation of pedestrian or vehicular traffic, including but not limited to restricting the event to only a portion of a street, or certain hours of the day, or

reasonable designation of alternative sites, or conditions designed to ensure traffic safety, such as those required for maintaining visibility of traffic signage and markings.

C. Requirements for the use of traffic cones or barricades.

D. Requirements for provision of first aid, sanitary, or emergency facilities, and for licensed security personnel.

E. 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 fire department.

F. Compliance with animal protection ordinances and laws.

G. Requirements for use of trash/recycle/compost containers, clean-up, and restoration of city property.

H. Compliance with any relevant ordinance or law in obtaining any other legally required permit or license.

I. Restrictions on the use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the Special Event.

J. The manner of providing notice of the permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the Special Event.

K. Compliance with any Contra Costa Health Services health orders, restrictions and best practices that support public health.

10.32.100 Fees.

A. Permit fees shall be established by the city's Master Fee Schedule. The fees shall be established in an amount to offset the city's costs, including costs associated with the review of applications, establishment of conditions of approval, public safety staff to regulate police and fire safety concerns, work crews to regulate maintenance impacts, and administrative staff to monitor city costs. The fees may also include a method of allocating, and imposing on a particular event, the city's actual costs of providing services for the particular event.

B. If a permittee is unable to hold or conduct a Special Event because of weather or due to some other cause not within the permittee's control, and the permittee submits a written request for the refund of fees to the Recreation Division of the Community Services Department within 10 days after the date the event was to have been held, the Director may authorize the refund of any fees that are not necessary to reimburse the city's expenses of preparing for the Special Event, except for the nonrefundable application fee.

C. No applicant shall be required to pay the application fee for the costs of city services as set forth in this section if the activity proposed for the Special Event is protected by the First Amendment and the applicant produces evidence that complying with the fee provision is impossible or so financially burdensome that it would preclude the proposed Special Event from occurring.

10.32.110 Action on Application.

A. Expressive Activity Events. For Expressive Activity events, the Recreation Division shall approve, conditionally approve, or deny an application no later than two business days after a completed application is submitted unless the applicant agrees to extend the time for making the decision to a later date. The applicant shall be notified in writing of the reasons

for the decision to conditionally approve or deny within two business days of receiving the application.

- B. Other Special Events. For all other Special Events, the Recreation Division shall approve, conditionally approve, or deny an application as expeditiously as possible and, in any case, no later than fifteen business days after the completed application is submitted unless the applicant agrees to extend the time for making the decision to a later date. If action on the permit under this section results in a permit with conditions imposed, such conditions shall be explained on the notice of conditional approval. If the permit is denied, the notice of denial shall set forth the reasons for denial.

10.32.120 Revocation or Suspension of Permit.

A. A permit issued under this chapter shall be revoked or suspended by the Recreation Division if one or more of the following takes place:

1. The permit is being used to conduct an activity different than that for which it was issued;
2. The activity is being conducted in a manner which violates one or more of the conditions imposed upon the issuance of the permit or fails to conform to the plans and procedures described in the application;
3. The applicant violates or attempts to violate any federal, state or local laws and regulations;
4. The Special Event is being conducted in a fraudulent or disorderly manner, or in a manner which endangers the public health or safety;
5. The Special Event Permit was issued in error or contrary to law; or
6. To the extent it might be required pursuant to Section 10.32.140, the applicant or event organizer fails to obtain and maintain insurance in full force and effect during the term of the Special Event Permit.

B. Such revocation or suspension shall become effective immediately upon order of the Director of the Recreation Division and shall remain in effect until the permittee has corrected the violation(s) or the permit has expired on its own terms.

C. In the event a permit is revoked or suspended pursuant to the provisions of this section, another permit shall not be granted to the applicant within twelve months after the date of such revocation or suspension.

D. The Recreation Division of the Community Services Department's determination to revoke or suspend a permit shall be based upon written findings provided to the permittee immediately upon taking action to suspend or revoke the permit.

10.32.130 Appeals.

A. Any applicant aggrieved by an adverse decision on the application may appeal such decision to the City Manager by filing a written notice of such appeal with the City Manager within five (5) business days of the decision. The appeal must set forth the name, address, and telephone number of the applicant; a detailed description of the specific action to be reviewed; the specific grounds for the review; and the relief or action sought. Failure to file an appeal with the City Manager shall constitute a failure to exhaust administrative remedies unless the applicant can establish by a preponderance of the evidence that due to timeliness or other circumstances recognized by law, the filing of such appeal would be futile.

B. The City Manager will decide the appeal within three (3) business days of receiving the written appeal. The City Manager shall consult with the City Attorney if practicable before denying or conditionally approving a permit involving Expressive Activity as that term is defined in this chapter. The decision shall be in writing and shall provide an explanation for the decision.

- C. The City Manager may refer the matter to a neutral hearing officer.
- D. Judicial Review. Following exhaustion of administrative remedies as set forth above, an applicant may file a petition for writ of mandate pursuant to California Code of Civil Procedure Section 1094.6 or 1094.8 regarding the validity of the city's decision.

10.32.140 Insurance.

A. Except as exempted by this section, the permittee shall procure and maintain in full force and effect during the term of the permit a policy of insurance from a reliable insurance company authorized to do business in the state, which shall be maintained in full force and effect during the term of the permit, which policy includes the city, its boards, officers, agents, employees, and volunteers as named insureds or additional named insureds and which provides the coverage that the risk manager determines to be necessary and adequate under the circumstances. Proof of insurance shall be submitted to the city prior to issuance of the permit and maintenance of this insurance shall be a condition of the permit. The insurance required by this chapter shall encompass all liability insurance requirements imposed for other licenses or permits required under any other provision of the Richmond Municipal Code and is to be provided for the benefit of the city and not as a duty, expressed or implied, to provide insurance protection for spectators or participants.

B. The insurance requirements set forth in this section shall not apply to Special Events that involve Expressive Activity; provided, that the permittee agrees to defend and indemnify the city as set forth in Section 10.32.150. A claim for exemption under this section shall be filed at the same time as an application for a permit. The city may require such proof and documentation as reasonably necessary to verify the constitutionally protected status of the Special Event.

C. For Special Events not involving expressive activities as defined in this chapter, insurance coverage will not be required only if the risk manager determines that the event does not present a substantial risk of public liability or property damage. If the Risk Manager determines that a particular use, event or activity does not present a substantial or significant public liability or property damage exposure for the city or its officers, agents, and employees, the risk manager may give a written waiver of the insurance requirements of this section. In making such a determination, the Risk Manager will consider and identify any risks, hazards, or dangers to public health or safety.

10.32.150 Indemnification.

A. The permittee shall indemnify and hold the City of Richmond, its agents, officers and employees harmless from and against:

- a) Any and all liability, claims, suits, actions, damages, penalties, costs including legal costs; and/or
- b) Causes of action whatsoever for any personal injury, bodily injury, loss of life or unforeseeable damage to the property arising from any incident, occurrence; and/or
- c) Conditions related to the privileges granted by the permit.

B. The permittee also agrees that any expenses incurred by the city due to failure of the applicant to adhere to the guidelines and conditions of the permit shall be the legal and financial obligation of the permittee.

C. This section shall not be construed to require a permittee to indemnify the city for any damage or harm caused by the city itself or by third parties outside the control of the permittee, or for losses to the city occasioned by the reaction to the permittee's Expressive Activity.

10.32.160 Unlawful to Use City Name Without Authorization.

It is unlawful for any event organizer to use in the title of the event the words "The City of Richmond" or "City of Richmond," or facsimile of the seal or logo of the City of Richmond, without the city's written authorization. Facsimile of the seal or logo of the City of Richmond is only permitted when the City sponsors or co-sponsors an event.

10.32.170 Interfering with Activity Prohibited.

It is unlawful for any person to obstruct, impede or interfere with any authorized assembly, person, vehicle or animal participating in a Special Event for which a Special Event permit has been issued.

10.32.180 Penalties.

A. Any person violating or permitting, counseling, or assisting the violation of any of the provisions in this chapter shall be subject to any and all civil and administrative remedies. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

B. The holding or conducting of any Special Event subject to the provisions of this chapter without a valid permit issued pursuant to the provisions of this chapter, , unless expressly exempt hereunder, is hereby declared a public nuisance. The Director of Community Services or their designee shall have the authority, as the Enforcement Officer of violations of this chapter, to issue administrative citations pursuant to Richmond Municipal Code Chapter 2.62.

C. Any person who intentionally violates any of the provisions of this chapter or any of the provisions of a permit issued hereunder may be guilty of an infraction.

SECTION 2. SEVERABILITY CLAUSE

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION 3.

This ordinance shall be effective thirty days after passage and adoption.

First introduced at a regular meeting of the City Council of the City of Richmond held April 4, 2021, and finally passed and adopted at a regular meeting held April 20, 2021, by the following vote:

AYES: Councilmembers Bates, Jimenez, Martinez, McLaughlin, Willis, Vice Mayor Johnson III, and Mayor Butt.
NOES: None.
ABSTENTIONS: None.
ABSENT: None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:
TOM BUTT
Mayor

Approved as to form:
TERESA STRICKER
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 05-21 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on April 20, 2021.

Pamela Christian, City Clerk of the City of Richmond