

COMMISSIONERS' ORDINANCE NO. 0-08-21

AN ORDINANCE AMENDING SECTIONS 93.31, 93.32, 93.33, AND 93.34 OF THE COVINGTON CODE OF ORDINANCES REGARDING SPECIAL EVENT PERMITS TO ADD A SPECIFIC PERMIT FOR USE OF THE CITY-OWNED SPACE AND AMENITIES KNOWN AS COVINGTON PLAZA.

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WHEREAS, A subchapter within Chapter 93 of the Covington Code of Ordinances sets forth a regulatory framework allowing certain "special events" on the public right-of-way and on public property; and

WHEREAS, Construction of Covington Plaza, part of the Riverfront Commons project, is nearing completion; and

WHEREAS, Covington Plaza will include a 1,300 seat amphitheater, two overlooks, walking paths, and a kayak launch; and

WHEREAS, The City wishes to activate this unique venue by making it available for various events while offsetting the associated costs; and

WHEREAS, Staff proposes revisions to various sections of the current special events ordinance to create a specific permit to allow private use of Covington Plaza.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That § 93.31 of the City of Covington Code, 1984 edition, is hereby amended as follows:

§ 93.31 PERMIT REQUIRED; EXCEPTION; CATEGORIES AND FEES.

(A) *Special event permit required.* No person shall engage in, participate in, aid, form or start any special event unless a special event permit has been obtained from the City Manager. However, this section shall not apply to:

- (1) Parades and public assemblies as defined in §§ 93.01 through 93.17 of this chapter;
- (2) A governmental agency acting within the scope of its functions;
- (3) Funeral processions;

(4) Individual or individuals lawfully assembled for the purpose of exercising their rights protected under the First Amendments of the United States and Kentucky Constitutions;

(5) Golf tournaments hosted at a designated golf course or related golf course facility (unless the event requires services or support from a city department);

(6) Picket lines which do not interfere with the normal flow of pedestrian or vehicular traffic, including emergency vehicles; or

(7) A spontaneous event conducted in a manner that does not unduly disrupt or inconvenience the public in the use of property involved, provided that the organizer of a spontaneous event is encouraged to give as much advance notice as reasonably possible to permit the city to provide services and/or equipment necessary for the spontaneous event.

(B) *Special event categories; fees.* The following special event categories and fees shall apply, except that the fee for any event sponsored by the city may be waived:

(1) *Low impact.* No physical activity by participants and no severe exposure to risk of harm to spectators, such as, but not limited to, indoor and outdoor meetings, neighborhood picnics, small theatrical performers, auctions and social gatherings. Crowd size of event: less than 1,000 persons. Fee: \$25.

(2) *Medium impact.* Limited physical activity by participants and no severe exposure to risk of harm to spectators, such as but not limited to, dances, animal shows, petting zoo, rallies, flea markets and family-type musical gatherings. Crowd size of event: 1,000 to 2,500 persons. Fee: \$50.

(3) *High impact.* Major participation by participants and/or moderate to severe exposure to risk of harm to spectators, such as but not limited to, team or individual sporting events, (non-professional) circuses, carnivals with rides, running road races or similar events. Crowd size of event: more than 2,500 to 5,000 persons. Fee: \$75.

(4) *Special impact.* Events such as but not limited to Maifest, Oktoberfest, Mardi Gras, concerts, professional or collegiate sporting events, rodeos, vehicle races, firework displays. Crowd size of event: more than 5,000 persons. Fee: \$100.

(5) *Block party permit.* A block party is a neighborhood gathering confined to a block or a portion of a street where no alcohol is allowed, served or consumed on public property. Event coordinator or sponsor shall indemnify and hold city harmless as indicated in § 93.33(L)(3) of this chapter for any loss or damage associated with the block party event. Crowd size of event: less than 200 persons. Fee: \$25.

(6) Covington Plaza permit. Notwithstanding the above-listed categories, any proposed event that will take place within all or a portion of the City-owned area and associated amenities known as

“Covington Plaza” will require a permit and prior approval by the City Manager. Fee: \$500 single day event or \$1,000 per multiday event not exceeding four (4) days, exclusive of setup and breakdown.

(C) *Alcohol involved.* In any event where alcoholic beverages are allowed or served, that event shall be considered a “special impact” event.

Section 2

That § 93.32 of the City of Covington Code, 1984 edition, is hereby amended as follows:

§ 93.32 PERMIT APPLICATION.

(A) An application for a special event permit shall be completed and submitted to the City Manager on forms provided by him or her in accordance with the city’s special event policies and procedures no sooner than one year and no later than 45 days prior to the proposed special event. A completed application shall not constitute approval of the permit.

(B) A waiver of the application deadline may be granted upon a showing of good cause or at the discretion of the City Manager. The City Manager may consider an application that is filed after the filing deadline if there is sufficient time to process and investigate the application, and arrange police and other city services and/or equipment for the event. Filing an application after the filing deadline may result in a penalty, including a late fee or denial of permit.

(C) Special event applications shall be considered in the order in which they are received. Special events requested for the same day and time and at the same or similar location will be granted on a first-come, first-served basis, unless it can be shown that it is in the best interest of the city, its residents, and guests to allow such simultaneous events. Scheduling preference may be given to city-sponsored events or events directly benefitting residents and guests of the city.

(D) The application for a special event permit shall set forth the following information:

- (1) The name, 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, the name, address, telephone number and email address of the headquarters of the organization and of the authorized heads of the organization;
- (3) The name, address, telephone number and e-mail address of the person, applicant or organizer who will be the special event chairperson and who will be responsible for its conduct;
- (4) The date and hours when the special event is to be conducted;

- (5) A description of the area to be utilized, including requested street changes and parking restrictions;
- (6) A description of the activities to be conducted;
- (7) The expected total attendance for the event, and the estimated maximum number of people to be assembled at any one time;
- (8) Verification of the applicant or sponsoring organization that proof of adequate liability insurance coverage shall be provided;
- (9) Verification and acknowledgment by the applicant of the duty to inform the City Manager of any change in details regarding the proposed event during the application process or after a permit is approved but before the special event takes place; and
- (10) Any additional information and criteria which the City Manager or his or her designee shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(E) An issued special event permit may include, among other provisions, reasonable terms and conditions as to:

- (1) The time, place and manner of the event;
- (2) Compliance with health and sanitary regulations;
- (3) Emergency services; and
- (4) Security.

(F) The City Manager, in conjunction with input and recommendations received from other city departments, may require additional permits to meet the conditions established and/or other city ordinances including, but not limited to: special noise variance, street closure permit and special temporary alcoholic beverage license.

(G) Additional fees may be incurred and assessed for required city services such as electrical service, security, fire protection, park user fees and the like.

(H) The city will not tolerate disorderly conduct, obscene or vulgar gestures, and any unlawful behavior at any permitted event by any event organizer, performer, staff, volunteer, or anyone associated in any way with the management or participation in the event.

(I) The City Manager and any applicable city department staff may contact the organizer and/or applicant to schedule a meeting to discuss the details of the proposed special event prior to making a final determination of approval or disapproval of the event.

(J) Before approving any special event application, the City Manager and any applicable city department staff shall consider, but are not limited to, the following criteria:

- (1) Impact on local economy;
- (2) Impact on public health and safety;
- (3) Impact on transportation and traffic within the proposed event area;
- (4) Availability of and access to emergency services;
- (5) Availability and/or diversion of city resources;
- (6) Complete application and accurate information;
- (7) Compliance with other city, county, state and federal permits as required by law;
- (8) Outstanding delinquent accounts or liabilities, if any, to the city;
- (9) Adverse impact or undue hardship, if any, on access and operation of businesses and homeowners;
- (10) Ability or resources of the applicant to adequately comply with the terms and conditions of the proposed event; [and]
- (11) The applicant's management of previous events[-]; ***and***
- (12) The reduction, whether temporary or prolonged, of the public's legal use of unique and valuable City-owned spaces and associated amenities.***

Section 3

That § 93.33 of the City of Covington Code, 1984 edition, is hereby amended as follows:

§ 93.33 STANDARDS FOR PERMIT ISSUANCE.

Upon receipt of a completed application, including all necessary attachments and addenda, the City Manager, or his or her designee, shall distribute the completed application to the applicable city departments for review. Upon completion of review of an application by a city department, the department shall issue a written recommendation to the City Manager. The City Manager shall issue a permit as provided for hereunder when, from a consideration of the application, the written recommendations from city departments and from any other information that may otherwise be obtained, he or she finds that:

(A) The conduct of the special event will not present an unreasonable hazard to the health or safety of the public;

(B) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the event and areas contiguous thereto as to prevent normal police protection to the city;

(C) The conduct of the special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the special event and areas contiguous thereto;

(D) The concentration of persons, animals, vehicles and equipment will not duly interfere with proper fire and police protection and ambulance service;

(E) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;

(F) Except in the case of city-sponsored events, the applicant or sponsor of the event shall provide proof of general liability insurance and any other applicable insurance coverages against hazards for claims involving personal injury, bodily injury, property damage, damages, medical expenses, business expenses, other expenses and any loss or damages arising in tort or breach of contract or insurance contract or otherwise as a result of the special event as follows:

(1) Low impact:

(a) A minimum of \$500,000 per occurrence and/or aggregate limit of liability is required; and

(b) The City Manager may waive the requirement for general liability insurance coverage for low impact events if the applicant represents that participants will not be exposed to risk of harm and indemnifies the city as indicated in division (L)(3) below.

(2) Medium impact: a minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required;

(3) High impact: a minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required; ~~and~~

(4) Special impact: a minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required~~[-]; and~~

(5) Covington Plaza: a minimum of \$1,000,000 per occurrence and/or aggregate limit of liability is required.

(G) The applicant or sponsoring organization has agreed to the city's requirements concerning regulations and costs associated with cleanup, Police and Fire Department service and other associated city services;

(H) There will be sufficient city manpower available to provide necessary services, such as police and fire protection and cleanup;

(I) The time, route or size of the event will not substantially interrupt the safe and orderly movement of traffic on or contiguous to the event site or route or will not disrupt the use of a street or highway at a time when it is usually subject to traffic congestion;

(J) The event will not violate any city ordinance or other applicable law;

(K) The nature and details of the proposed event have not changed during the application review process in a manner that would require additional review by city department staff before the permit is approved; and

(L) Any or all of the following additional requirements are satisfied:

(1) The applicant or sponsor of the event shall name the city and city officials as an insured under the policy or policies of insurance;

(2) The applicant or sponsor of the event shall provide the city with written verification that the required insurance coverage is in effect for the event;

(3) The applicant or sponsor of the event shall indemnify and hold the city harmless from all claims for liability against the city, city employees, agents and elected officials arising from the issuance of the special events permit and any occurrence at the event. All special events will require a written hold harmless and indemnification agreement holding harmless and indemnifying the city, city employees, agents and elected officials; and/or

(4) If it is determined that city resources, including but not limited to Police and Fire Department personnel costs, are needed to ensure a safe event, the applicant must present proof of sufficient financial security or post a bond or deposit funds with the city to hold in escrow equal to the amount of the anticipated cost of obtaining sufficient Police and Fire Department personnel or other costs. The City Manager may exercise his or her discretion regarding whether proof of financial security, bond, or escrow funds is required.

Section 4

That § 93.34 of the City of Covington Code, 1984 edition, is hereby amended as follows:

§ 93.34 DENIAL OF PERMIT.

The City Manager shall approve an application for an event permit unless he or she determines, from consideration of the application and from any other information that may otherwise be obtained, that:

(A) Any contemplated advocacy at the proposed event will be directed to inciting or producing imminent lawless action and will likely incite or produce such action;

(B) Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail;

(C) The applicant has failed to complete the application form, including all necessary documents and information, within the time frame permitted by the City Manager and established by city policy and procedure after having been notified of any additional information or documents required;

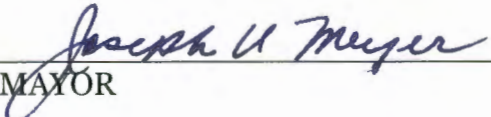
(D) The applicant has failed to pay costs, fees or other expenses for the application or for previous special event permits or has had a special event permit revoked within the preceding 24 months; [øø]

(E) Another event permit or application has been received prior in time, or has already been approved, to hold another event on the same date and time requested by the applicant, or so close in time and place as to cause undue traffic congestion, or burden the city's ability to meet the needs of police, fire or other emergency services to the remainder of the city due to more than one event occurring anywhere in the city[-]; **or**

(F) The proposed use of the unique City-owned space and associated amenities will result in an unreasonable reduction in the public's legal use of the City-owned space and associated amenities.

Section 5

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.


MAYOR

ATTEST:


INTERIM CITY CLERK

Passed: 05-11-21 (Second Reading)

04-27-21 (First Reading)