

**CITY OF BEMIDJI
PUBLIC WORKS COMMITTEE**

AGENDA

MEETING DAY/DATE: TUESDAY, FEBRUARY 26, 2019

LOCATION: CITY HALL

TIME: 5:00 P.M.

1. Call to Order
2. Special Events Ordinance Discussion
3. Adjourn

CITY OF BEMIDJI

ORDINANCE NO. , 3RD SERIES

AN ORDINANCE AMENDING CHAPTER 20 OF THE BEMIDJI CITY CODE ENTITLED, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES" BY ADDING SECTION RELATING TO PERMITTING OF "SPECIAL EVENTS"

THE CITY OF BEMIDJI DOES ORDAIN:

SECTION 1. Bemidji City Code, Chapter 20, entitled, "Streets, Sidewalks and Other Public Places" is hereby amended by adding the following Section relating to "Special Events":

Sec. 20-8 - Special Events

(a) **Definitions:**

"Special Event" means an event held in the City in which one or more of the following occurs:

- (1) a temporary alcoholic beverage license is required or an existing on-sale alcoholic beverage license is authorized by the City Council to dispense intoxicating liquor off-premises at the event location as part of a community festival according to Bemidji City Code Sec. 4-97(b);
- (2) a street, sidewalk or other public way or place is closed for the benefit of the event attendees;
- (3) use of a City park or public way which exceeds 300 attendees;
- (4) amplified sound, sound device or apparatus is to be used in connection with a gathering and which creates a nuisance in violation of Chapter 14 of the Bemidji City Code; or
- (5) the event will adversely impact a considerable number of members of the public or City resources.

"Person" means an individual, partnership, corporation, or any association of individuals, partnerships or corporations.

"Sound Device or Apparatus" means any radio device or apparatus for the amplification of any sounds from any radio, phonograph or other sound-making or sound producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

"Background Music" means subdued and unobtrusive music played: (a) no louder than the ambient street level noise; and (b) as an accompaniment to, or for the purpose of creating a pleasant atmosphere for, an activity or a public place.

(b) **Purpose and Intent.**

The City Council finds that in the interest of public health, safety and welfare, citizens have the right to be assured that events occurring within the City are operated in a safe and healthy manner that minimizes the potential adverse impacts to the citizens. At the same time, the City Council recognizes the desire of many of the City's citizens, individually and in gatherings, to fully enjoy outdoor related events. Therefore, the City Council's objective herein is to preserve, protect and promote the City's citizens' health, safety, welfare and quality of life, through reasonable, regulation, control and planning of special events.

(c) **Special Event Permit Required.**

No person shall conduct, maintain, or operate a Special Event as defined herein unless such person shall first obtain a Special Event permit issued under this Ordinance. Permit applications will be considered by the City Council in the manner hereinafter prescribed, and such person shall comply with the provisions of this Section, and the terms and conditions prescribed in such permit.

(d) **Application for Permit.**

Each applicant for a permit shall file an application on a prescribed form with the City Clerk for submission to the City Council. Such application must be received by the City Clerk according to the following schedule:

- 30 days prior to the event for events planned for under 300 participants and street closures; or
- ~~90~~120 days prior to the event for events planned for over 300 and less than 1,000 participants; or
- ~~120~~180 days prior to the event for events planned for over 1,000 participants.

The City Council may waive the filing deadline upon: 1) the applicant's showing of good cause or reasonable excuse for the late filing; 2) the absence of any prejudice to the public's health, safety and welfare; and, 3) the City Council's ability to hold a public hearing concerning the application prior to the scheduled event. The application shall be accompanied by permit of any permit fee established by the City Council and must contain the following information:

- (1) The location(s) for which the permit is sought;
- (2) The dates and times of the event for which the permit is sought;
- (3) The name, address and telephone number of the Applicant and the contact person named by the Applicant to implement the permit and to be on site during the event. The contact person must be responsible for permit's compliance with the laws of this Section and any terms or conditions imposed upon the approval of the permit;
- (4) A description of the facilities and arrangements that are in place for the handling of food, medical needs, sanitation, fire services, garbage disposal, and adequate security and police protection for the event including crowd control, traffic control and police protection for adjacent property owners;

- (5) A sketch, site plan, stage plot or other description of the land and premises to be used for the event for which the permit is sought;
 - (6) Statement or identification on the site plan of compliance with the American with Disabilities Act for access to facilities and services (including sanitation).
 - (7) A description or identification on the site plan for compliance with local and state storm water rules and regulations, including proper disposal of grey water and food vendor byproducts/grease and protection of storm water inlets and basins.
 - (8) A description of the entertainment intended to be provided, including the type of entertainment, the location where it is to be staged or provided, the dates and time frames during which entertainment is to be provided, a statement as to the maximum number of persons who will be permitted to be in attendance on any particular day and a description of the means by which attendance will be limited to such number of persons;
 - (9) A description of the means and methods proposed by the Applicant to prevent noise from the event unreasonably disturbing those persons who live or work in the vicinity of the event. Additionally, a statement from the applicant as to whether the applicant intends to use amplified sound, sound device or apparatus and complies with Section (g) below.
 - (10) A statement from the Applicant indicating the applicant has obtained a copy of this Section, has read and does understand the regulations found within this Section, and does intend to comply with the regulations found within this Section and any conditions of approval imposed upon the permit that might be granted in response to his application;
 - (11) Such other information that the City Manager, City Attorney, City Clerk, Parks & Recreation Director, Police Chief, Fire Chief, Public Works Director, or their designees, may need in order to carry out the purposes of this Section, or that may be required pursuant to any Special Event policy that may be approved.
 - (12) A Special Event Permit Application may serve as well as an application for a Park Permit under Bemidji City Code, Chapter 14-35. However, a Park Permit applicant must separately satisfy the requirements and condition under Chapter 14-35, including payment of all fees associated with a Park Permit.
- (e) **Meeting Prior to Issuance.**
Applicant and/or their representative may be required to meet with City staff and other government units within 10 days of the City's receipt of Special Event Permit application.
- (f) **Issuance of Permit.**
- (1) Terms. The City Council must consider each application for a permit in light of the following criteria:
 - a. The day of the week, time of day and duration of the Special Event;
 - b. The character and nature of land uses underlying and adjacent to the Special Event;

- c. The proximity and compatibility of the Special Event to residential, religious or medical facilities, or the general public;
 - d. The volume, frequency and type of sound to be generated, and the sufficiency of means and methods proposed by the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event; and
 - e. The sufficiency of the arrangement made to provide adequate security, garbage disposal, restrooms, crowd control, traffic control and parking control.
- (2) The City Council will not issue a permit to any person who has, during the past 12 months, failed to observe the terms and conditions of any previously issued permit or who has had his or her right to apply for and receive a permit suspended or revoked under Section (f).
 - (3) The City Council may impose conditions upon its issuance of a permit that are reasonably related to the satisfaction of the provisions or the furtherance of the objectives of this Section including the criteria listed in Subd. (1) of this Section. Those conditions may include a time restriction on the Special Event permit issued pursuant to this Section.
 - (4) The City Council may require a meeting with key staff which may include other governmental units prior to the Special Event.
 - (5) The applicant/permittee shall keep the Special Event permit in possession at all times at the location of the Special Event under the authority of the permit, and shall present the permit upon demand by a law enforcement officer.
 - (6) Special Event permits involving closure or use of streets, sidewalks or other public ways shall not be issued for uses and activities which shall charge an admission or request a donation, for a person to attend or participate in an event activity conducted within the public ways, unless the event applicant is an organization which is a charitable, religious or nonprofit corporation and such applicant is the sponsor of such use and activity, or the Special Event involves a use or activity sponsored by the City, or is granted a waiver by the City Council to allow such admission or donation.
 - (7) For a Special Event proposed to be conducted on public property, the applicant shall obtain insurance coverage for activities involved with the event. The amount and type of insurance required for using such public property will be determined by the City based upon the nature and risk of the activity(s). Prior to the applicant's use of the public property, the applicant must provide an insurance certificate listing the City of Bemidji as an additional insured.
- (g) **Sound Limitation and Restrictions.**
- (1) The limitations of amplified sound, sound devices or apparatus shall be in compliance with and as defined under Chapter 14 [of the Bemidji City Code](#).
 - (2) The City Council in issuing a Special Event Permit may waive the maximum allowable sound limits and replace it with a restriction requiring the amplified sound to terminate no later than **10:30 p.m.** on the day of each event covered by the permit, or at such

other time approved by the City Council. If a waiver is granted by the City Council, no person shall allow the amplified sound to continue beyond such time approved by the Council.

- (3) Exceptions. This Section shall not apply to the use or operation of any sound device or apparatus:
- a. At a location that is not in, near, or adjacent to any public street, park, place, or near or adjacent to a residential area;
 - b. By any place of worship on or within its own premises, in connection with the religious rites or ceremonies of such place of worship;
 - c. By the police and fire departments of the city in the performance of their official duties;
 - d. By a public or private school on school grounds;
 - e. In musical presentations made or sponsored by the City;
 - f. By licensed auctioneers during the course of an auction event;
 - g. As background music no later than 10:30 p.m.; or
 - h. As specifically allowed under any other provision of this Code.

(h) **Additional Requirements and Restrictions.**

- (1) For Special Events involving a street closure, all events must include an emergency plan detailing access for emergency vehicles. Furthermore, event applicants shall notify affected property owners as follows:
- a. In residential neighborhoods: seven (7) day advance notice to the residents that will be impacted by the event is required so they can plan around the inconvenience. This is the responsibility of the event sponsor. If this activity is not done, the event will be canceled.
 - ~~b. In commercial areas: if businesses are affected, applicant shall notify the affected property owners fourteen (14) days prior to the street closure. Furthermore, a consent/non-consent form must be received from all businesses that are affected by the street closure as a part of the application packet; with 75% required to be in favor of the event. This is the responsibility of the event sponsor. Forms are included in the application packet.~~
 - b. In commercial areas: if businesses are affected, applicant shall notify in writing the affected business owners at least fourteen (14) days prior to the street closure. Furthermore, a blank written objection form must be provided by the applicant with the notice to all businesses. A business electing to object, must complete and submit the objection form to the City no later than seven (7) days prior to the scheduled event. If fifty-one (51%) of impacted businesses file such written objection to the event, the City may consider withholding or canceling the event permit. Objection forms are included in the application packet.
- (2) Road Closures are not allowed for locations where there are no other access options for the businesses or residents.
- (3) Applicant is responsible for set up and removal of barricades. Barricades may be available by written request from the City Public Works (Street) Department.

- (4) ~~Police Department~~ Applicant is responsible for supplying ~~and posting~~ “No Parking” signs. No parking signs must include the day and time of closure and must be posted 24 hours before street closure. Applicant is responsible for posting of the signs. Signs must be laminated. Signs must be stapled to wood lathes and inserted into traffic cones. At least six (6) signs per street side are required for posting. During the event, any vehicle found parked in violation of the no parking posting may be reported to the Bemidji Police Department (through Dispatch) for a decision or action by the Police Department regarding a towing request.

(i) **Suspension or Revocation of Permit.**

- (1) A Special Event permit issued by the City Council may be suspended or revoked upon a finding that the permittee, during the term of the permit, failed to comply with any provision of this Section, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any applicable federal or state statute, administrative rule, or city or county ordinance.
- (2) A person’s right to apply for and receive a Special Event permit may be suspended or revoked upon a finding that the person has failed to comply with any provision of this Section, any directive or order issued by a law enforcement officer, any condition imposed upon the issuance of the permit, any term or provision stated upon the permit, or any other applicable federal or state statute, administrative rule, or city or county ordinance.
- (3) Any suspension or revocation of a permit may occur only after a public hearing has occurred before the City Council with notice and an opportunity to be heard provided to the permittee or person who is the subject of the hearing.
- (4) Notwithstanding Subdivisions 1-3 above, a law enforcement officer may order cessation of a Special Event when the permittee violates any directive or order issued by the law enforcement officer relating to compliance with a condition of the permit.

- (j) **Permittee’s Presence on Location.** The permittee or their contact person, as required to be named in the application must be physically on location during the time the permit is effective or must have made some other arrangement with and satisfactory to a law enforcement officer.

- (k) **Penalties.** Any person who violates any provision of this Section, or who violates any directive or order issued by a law enforcement officer in the implementation of this Section, or fails to abide by any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit shall be guilty of a misdemeanor, and upon conviction, shall be punished by such penalties and fines as are provided by law.

A separate offense shall be deemed committed each day during which a violation occurs or continues.

Upon conviction of a misdemeanor, the costs of prosecution may be added.

In addition to any criminal penalties that may be imposed by a court of law, any violation of this ordinance shall also be cause for imposition of an administrative fine and/or permit

suspension.

Upon a finding that a permittee or person has violated any provision of this Section, any directive or order issued by a law enforcement officer in the implementation of this Section, any condition imposed upon the issuance of the permit, or any term or provision stated upon the permit, the City Council may suspend or revoke the permit or the person's ability to obtain a permit pursuant to this Ordinance.

- (l) **Severability.** Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held to be invalid.

SECTION 2. This ordinance shall become effective thirty (30) days after its passage and publication according to law.

Ayes:
Nays:
Absent:

First Reading: December 3, 2018
Second Reading:
Final Reading:

Attest:

Approved:

Michelle R. Miller, City Clerk

Rita C. Albrecht, Mayor