

**TOWN OF EAGLE, COLORADO
ORDINANCE NO. 12
(Series of 2019)**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,
COLORADO AMENDING TITLE 6 OF THE EAGLE MUNICIPAL CODE BY THE
ADDITION OF A NEW CHAPTER 6.05 REQUIRING A SPECIAL EVENT OR
DEMONSTRATION PERMIT FOR CERTAIN ACTIVITIES AFFECTING TOWN
PROPERTY**

WHEREAS, special events and demonstrations contribute to the economic, cultural, social, and environmental health and well-being of the community;

WHEREAS, special events and demonstrations, however, also create special regulatory problems and quality of life issues, including the need for crowd control, sanitation, security, traffic management, parking, and infrastructure;

WHEREAS, use of parks and other public property by large groups has the possibility to interfere with the use of the parks and other public property by other members of the public;

WHEREAS, the Board of Trustees, having considered the size and population of the Town and the resources available to the Town, determines that special events and demonstrations with 50 or more participants should require a permit so that the Town can take appropriate measures to ensure that the public health, safety and welfare is adequately protected;

WHEREAS, courts have recognized the right of municipalities to enact reasonable time, place and manner restrictions related to special events and demonstrations, such as those established herein while respecting and protecting the free speech rights of groups and individuals wishing to express their views by such methods; and

WHEREAS, it is reasonable and appropriate for the Town to enact the regulations in this ordinance to ensure the delivery of critical emergency services and to protect the public health, safety and welfare while also respecting and ensuring free speech rights.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Chapter 11.14 of the Eagle Municipal Code is hereby repealed in its entirety.

Section 2. Title 6 of the Eagle Municipal Code is hereby amended by the addition of a new Chapter 6.05, to read as follows:

Chapter 6.05. SPECIAL EVENTS AND DEMONSTRATIONS

Section 6.05.010. Purpose.

The purpose of this Chapter is to provide for and regulate the use of public property to minimize the impacts of large groups and to ensure that public property is reasonably available and safe for use by the public.

Section 6.05.020. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

Demonstration means a rally, picketing, protest, speechmaking, march, vigil, religious service or any similar gathering that primarily involves the communication or expression of views or grievances that involves fifty (50) or more participants and occurs on a public property.

Public property means any property owned or controlled by the Town and open to the public or available for public use, including without limitation public streets, rights of way, sidewalks, parks, open space, facilities and public buildings.

Special event means a planned event involving a gathering of fifty (50) or more people which occurs on public property, including without limitation block parties, parades, festivals, walks, running or bicycle races, fundraisers, picnics, or sports tournaments, but excluding demonstrations.

Section 6.05.030. Permit required.

It is unlawful for any person to stage, hold, present, or conduct a special event or demonstration within the Town without a valid permit issued under this Chapter.

Section 6.05.040. Exemptions.

The provisions of this Chapter shall not apply to:

1. An indoor special event of any kind; or
2. A recreational event at Eagle Town Park, Brush Creek Park, Terrace Park or the Town's multipurpose fields and scheduled through the Town.

Section 6.05.050. Application.

A. Any person desiring to sponsor or conduct a special event or demonstration shall file an application with the Town Manager's office on a form supplied by the Town.

B. Each application shall be accompanied by a signed indemnification agreement stating that the applicant, in exchange for issuance of the permit, agrees to reimburse the Town for any costs incurred by the Town in repairing damages to public property caused by the applicant, sponsors, invitees, or participants of the special event or demonstration and agreeing to defend the Town against, and indemnify and hold the Town harmless from, any liability to any person or property that arises from or is related to the special event or demonstration.

C. Each application shall be accompanied by a nonrefundable application fee in such amount established by resolution of the Board of Trustees. Demonstration permits shall not be subject to an application fee.

Section 6.05.060. Review; decision.

A. Upon receipt of a complete application, the Town Manager shall transmit copies of the application to such persons, agencies, or departments as the Town Manager deems appropriate. Within ten (10) days, the referral agencies shall provide the Town Manager with any comments concerning the application.

B. The Town Manager shall approve, deny or conditionally approve an application for a special event permit within forty (40) days of receipt of the completed application. Notice shall be provided by e-mailing a copy of the Town Manager's decision to the applicant at the e-mail address provided in the application. If an application is denied or conditionally approved, the Town Manager shall clearly set forth in writing the grounds for such denial or conditional approval.

C. The Town Manager shall approve, deny or conditionally approve an application for a demonstration permit within forty-eight (48) hours of receipt of the completed application. The Town shall, upon a showing of good cause, consider an application for a demonstration to occur within forty-eight (48) hours of the receipt of the completed application if there is sufficient time to process and investigate the application and obtain necessary Town services for the demonstration. Notice shall be provided by e-mailing a copy of the Town Manager's decision to the applicant at the e-mail address provided in the application. If an application is denied or conditionally approved, the Town Manager shall clearly set forth in writing the grounds for such denial or conditional approval.

Section 6.05.070. Criteria for denial; conditions.

A. The Town Manager shall approve a permit application unless the Town Manager determines, upon consideration of the application and other pertinent information, that:

1. Information contained in the application or supplemental information obtained from the applicant is found to be false in any material detail;

2. The applicant is not legally competent to contract under Colorado law;

3. The applicant or the person on whose behalf the application is made has failed to pay costs, fees, or deposits for a previous special event or demonstration permit within the preceding five (5) years; or the applicant has failed to pay the Town for damages arising from a previous special event or demonstration held by the applicant, regardless of when such event was held;

4. The applicant has failed to abide by the requirements or conditions of a previous permit within the preceding five (5) years;

5. The special event or demonstration will conflict with: a special event or demonstration for which a permit has already been issued; a Town-sponsored event; or an annual special event which is reasonably expected to be held again, but for which an application has yet to be submitted.

6. The location of the special event or demonstration will substantially interfere with any scheduled construction or maintenance work;

7. The special event or demonstration will cause significant disruption in the ability of the Town to deliver or provide essential governmental services;

8. Adequate sanitation and other required health facilities are not and cannot be made available at or sufficiently near the proposed special event or demonstration area(s); or

9. Sufficient parking is not available near the location of the special event or demonstration to accommodate the number of vehicles reasonably expected, and an acceptable transportation and parking plan to provide adequate parking has not been submitted.

B. When the grounds for denial of an application can be corrected by the imposition of reasonable conditions, the Town Manager shall, instead of denying the application, conditionally approve the application with conditions necessary to protect the public health, safety, and welfare of the public, including without limitation:

1. Alteration of the date, time, duration, frequency, route or location of the special event or demonstration;

2. A deposit in an amount the Town Manager finds is appropriate based upon an estimate of the actual costs to be incurred by the Town in the clean-up of the special event or demonstration;

3. Proof of insurance demonstrating that the permittee has in effect a policy of general liability insurance in an amount determined by the Town Manager based upon issues routinely considered by the Town in evaluating loss exposures;

4. Conditions concerning parking, pedestrian or vehicular traffic, including without limitation restricting the special event or demonstration to only a portion of a street or right-of-way;

5. Traffic control requirements, such as traffic cones, barricades or other traffic control devices;

6. Provision of emergency access and first aid or sanitary facilities;

7. Supplemental fire protection or law enforcement personnel to be present at the special event;

8. Notice of the special event or demonstration to surrounding neighborhoods;

9. Restrictions on the number and type of vehicles, animals or structures and inspection and prior approval of floats, structures and decorated vehicles;

10. Required trash receptacles, cleanup and restoration of property;

11. Restrictions on amplified sound; and

12. Designation of a contact person with decision-making authority who will be continuously available to law enforcement personnel and present at the special event or demonstration.

Section 6.05.100. Duties of permittee; posting.

In connection with the holding of the special event or demonstration for which a permit is issued, a permittee shall:

A. Comply with all of the terms and conditions of the permit and all applicable Town ordinances, the rules, regulations and policies adopted by the Town Manager pursuant to Section 6.05.120, and state and federal law;

B. Permit inspection of its records and special event or demonstration facilities by the Town Manager for the purpose of determining the permittee's compliance with the terms and conditions of the permit; and

C. Ensure that a copy of the permit is continuously posted in a conspicuous location at the site of the special event or demonstration throughout the duration of the event or demonstration.

Section 6.05.080. Suspension; revocation.

A. The Town Manager may suspend or revoke a permit at any time prior to the special event or demonstration if: conditions change or facts come to light so that the application could have been denied in the first instance; or the terms of a conditional permit have not been satisfied in the time specified for meeting the condition.

B. The Town Manager may suspend or revoke a permit during the course of the special event or demonstration if: continuation of the special event or demonstration presents a clear and present danger to the participants or the public health, safety or welfare; or the special event or demonstration fails to comply with any condition of the permit or any applicable law.

C. In deciding whether a permit should be suspended or revoked, the Town Manager shall consider: the nature and seriousness of the issue; the corrective action, if any, taken by the permittee; and the likelihood of recurrence.

D. The Town Manager's decision under this Section is appealable to the Board of Trustees pursuant to Section 6.05.100.

E. No application fees paid by a permittee in connection shall be refunded if such permit is suspended or revoked, unless the decision is overturned on appeal.

Section 6.05.090. Permit non-transferable.

A permit is non-transferable and non-assignable. Any attempt to transfer or assign such permit voids the permit.

Section 6.05.100. Appeal.

A. Special event permit.

1. A decision of the Town Manager regarding a special event permit may be appealed to the Board of Trustees by filing a written notice of appeal setting forth the grounds for appeal within ten (10) days after the decision is rendered. Failure to timely appeal the Town Manager's decision is a waiver of the right to appeal.

2. The applicant or permittee shall be provided with not less than ten (10) days' prior written notice of an appeal hearing to be held by the Board of Trustees. The burden of proof shall be on the applicant or permittee.

3. If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town Manager was correct, the Board of Trustees shall uphold the decision of the Town Manager. If the Board of Trustees finds by a preponderance of the evidence that the decision of the Town Manager was incorrect, the Town Manager's decision shall be set aside.

4. The decision of the Board of Trustees shall be final, subject only to judicial review.

B. Demonstration permit.

1. A decision of the Town Manager regarding a demonstration permit may be appealed by filing a written notice of appeal setting forth the grounds for such appeal within ten (10) days after the decision is rendered.

2. Within twenty-four (24) hours of the receipt of such appeal, the Mayor shall review the appeal and issue a written decision, which decision shall be final and subject only to judicial review. The burden of proof shall be on the applicant or permittee.

3. If the Mayor finds by a preponderance of the evidence that the decision of the Town Manager was correct, the Mayor shall uphold the decision of the Town Manager. If the Mayor finds by a preponderance of the evidence that the decision of the Town Manager was incorrect, the Town Manager's decision shall be set aside.

4. If an appeal is filed less than twenty-four (24) hours prior to the requested date for the demonstration, and the Mayor is unable to review the appeal prior to the requested date, the Mayor shall notify the appellant that circumstances do not permit a determination of the appeal, and said applicant is entitled to seek judicial review of the denial with no further administrative review.

Section 6.05.110. Relationship to other ordinances.

A. The permittee shall ensure that the special event or demonstration complies with all other applicable law. Specifically:

1. A permit issued under this Chapter is not a special events liquor license. If alcoholic beverages are to be served, the permittee must obtain the required permit or approval from the Town Clerk.

2. A development permit or building permit may be required depending upon the size and scale of any temporary structures proposed to be used in connection with the special event or demonstration.

B. Notwithstanding the foregoing, a permit issued under this Chapter may authorize the permittee to display temporary signage in connection with the special event or demonstration, if the signage is included in the application and approved as part of the permit.

Section 6.05.120. Rules, regulations and policies.

The Town Manager is authorized to adopt administrative rules, regulations and policies as may be necessary for the proper administration of this Chapter.

Section 06.05.130. Violation and penalty.

A. It is unlawful to violate any provision of this Chapter. Violations of this Chapter shall be punished as set forth in Chapter 1.12.

B. In addition to all other available remedies, a special event or demonstration without a valid permit issued pursuant to this Chapter may be enjoined by any court of competent jurisdiction.


Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after publication following adoption.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 14th day of May, 2019.

TOWN OF EAGLE, COLORADO



Kevin Brubeck, Mayor Pro Tem

ATTEST:


Jenny Rakow, Town Clerk