

**ORDINANCE NO. 08-2014**  
**AN ORDINANCE AMENDING CHAPTER 31, OFFICERS AND EMPLOYEES;**  
**ARTICLE II, DIRECTOR OF RECREATION, SECTION 31-4 POWERS**  
**AND DUTIES OF DIRECTOR; RECREATION COMMITTEE;**  
**CREATING CHAPTER 38, SPECIAL EVENTS;**  
**DELETING CHAPTER A214, COMMUNITY CENTER RULES and**  
**CREATING A NEW CHAPTER A214, PUBLIC USE OF COUNCIL CHAMBERS**  
**OF THE CODE OF THE BOROUGH OF SEA BRIGHT**

BE IT ORDAINED, by the Mayor and Council of the Borough of Sea Bright that the following revisions to the Code of the Borough of Sea Bright shall be enacted:

**SECTION I**

Subparagraph A of § 31-4, Powers and Duties of Director; Recreation Committee of Chapter 31, Officers and Employees, Article II, Director of Recreation, shall be amended so as to read:

A. Recreation. Planning, operation and coordination of recreation programs and services, community centers, cultural affairs, group activities and special events for which a Special Event Permit has been issued pursuant to Chapter 38 of this Code.

**SECTION II**

Chapter 38, Special Events shall be created and read as follows:

**§ 38-1 Definitions:**

“Applicant” shall be defined as the person seeking or obtaining a Special Event Permit.

“Block Party” shall be defined as a gathering on a residential street requiring a closure of said street, or a portion thereof, to vehicular traffic and use of the street for the gathering.

“Conflict” shall be defined as any situation in which a member of the Committee shall, either directly or indirectly, have any personal or financial interest in a specific permit application.

“Person” shall be read as including any natural person, organization or company duly formed and existing under the laws of the State of New Jersey, its owners, agents, employees or representatives.

“Public gathering” shall not include weddings, or other private parties on public property, which are not open to the general public, do not constitute a “Block Party”, and have been specifically approved by the Borough Council.

"Special Event" or "Event" shall be defined as, but not limited to, any race, walkathon, parade, fair, carnival, festival, ~~celebration~~, concert, show, exhibition, block party, public gathering, or other similar event in or upon any public grounds, space, park, beach or street of the Borough, which may also require temporary exemption from certain municipal ordinances.

"Special Event Permit" or "Permit" means a permit issued pursuant to this chapter.

"Special Events Committee" or "Committee" shall mean the Special Events Committee formed pursuant to the provisions of this Chapter.

"Street" means a way or place of whatever nature, publicly maintained and open to the use of the public right-of-way for purposes of vehicular or pedestrian travel. "Street" includes highways and alleys.

### **§ 38-2 – Special Event Permit**

- a) A person or organization desiring to hold a Special Event must first apply for and obtain a permit from the Borough Clerk.
- b) An application for a permit shall be filed with the Clerk on a form furnished by the Borough Administrator, and signed by the organizer under penalty of perjury.
- c) An application shall be filed not less than sixty (60) days before the date of the proposed special event.
- d) There shall be a fee for the filing of any permit application, said fee to be set by the Borough Council on an annual basis, initially at \$ 25.00; said fee may be adjusted.
- e) An applicant who holds reoccurring events for the benefit of the citizens of the Borough of Sea Bright may make a single application listing all of the events for which it seeks approval. The Borough Clerk shall be empowered to determine whether the applicant is in fact one who holds such reoccurring events and is therefore eligible to submit a single application.
- f) Permit applications shall contain:
  - 1) Name, address and telephone number of the applicant;
  - 2) Names, addresses and telephone numbers of any organizers, persons, corporations or associations sponsoring the event.

- 3) Name, address and telephone number of the contact person who shall be the individual with whom Borough employees and representatives may communicate about the Special Event prior to, during and after the event as to all issues pertaining to the event.
  - 4) A detailed description of the proposed event, including, as applicable, a sketch that would show the area or route to be used, along with proposed structures, tents, fences, barricades, signs, banners and restroom facilities.
  - 5) The date(s) and hours during which the Special Event, for which a permit is desired, will occur.
  - 6) The location of the event for which the permit is desired, and complete details as to how the applicant intends to provide for security and traffic control, including any specific routes or plans, assembly and dispersal locations.
  - 7) The number of contestants, participants, spectators and/or other people that could reasonably be anticipated to attend the event.
  - 8) A detailed description of the Borough resources or services that will be required to be provided in connection with the event.
  - 9) In the case of a Block Party, a signature list with the names and addresses of at least fifty (50%) percent of the properties in the block/neighborhood affected by the event so as to demonstrate local support for the Block Party.
  - 10) An acknowledgment that if the permit is issued, the applicant will (a) be bound by all applicable Borough ordinances, rules and regulations and (b) be liable for all loss, damage or injury sustained by any person, for whatever reason, which might occur during the special event due to the negligence of those organizers, persons, corporations or associations.
  - 11) An indemnity agreement in a form approved by the Borough attorney which shall expressly provide that the applicant agrees to defend, protect, indemnify, and hold the Borough, its officers, employees and agents free and harmless from and against any and all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of the applicant, its agents, its employees or participants in the special event.
  - 12) Any other information which the Borough Clerk shall find reasonably necessary for making a fair determination as to whether the requested permit should be issued.
- g) Upon submission of the permit application, the Borough Clerk shall transmit the application to the Special Events Committee for consideration and review.

- h) No special event permit shall be issued by the Borough Clerk unless said permit has either been approved by the Special Events Committee, per § 38-10 of this ordinance, or approved by the Borough Council, per § 38-11 of this ordinance.
- i) No special event permit shall be issued by the Borough Clerk unless the applicant has paid the Special Event Escrow, if such has been required per § 38-7 of this Ordinance.
- j) No special event permit shall be issued by the Borough Clerk unless the applicant has provided proof of liability insurance, if such has been required per § 38-8 of this Ordinance.
- k) The special event permit shall identify the Borough Ordinances, if any, which are being waived for the Applicant for the duration of the Special Event.
- l) In accordance with the police powers afforded to the Borough pursuant to State Law, the Borough reserves the right to limit the number of Special Event permits to be issued for a given calendar day.

### **§ 38-3 – Special Events Committee Membership**

- a) There shall be created a Special Events Committee which shall consist of the following eleven (11) members: (1) The Mayor or a designee of his or her choosing, (2) A member of the Borough Council as chosen by it, (3) the Borough Administrator or, if the Borough Administrator is unavailable for any Committee meeting, the Borough Clerk, (4) the Chief of Police, (5) the Superintendent of Public Works, (6) the Director of Recreation, (7) the Public Safety Director, (8) the Borough's Fire Subcode Official, (9) a Registered Environmental Health Specialist from the Monmouth County Regional Health Commission No. 1, (10) an owner of a business located in the Borough of Sea Bright who is neither an official of or in the employ of the municipality, as chosen by the Mayor with the advice and consent of the Borough Council, to serve a term no longer than one (1) year from the date of appointment, (11) a resident of the Borough of Sea Bright who is neither an official of or in the employ of the municipality, as chosen by the Mayor with the advice and consent of the Borough Council, to serve a term no longer than one (1) year from the date of appointment.
- b) The Borough Administrator, or Borough Clerk if the Borough Administrator is unavailable, shall act as the Chairman of the Special Events Committee.
- c) The Special Events Committee shall select a secretary, who shall be a member of the Committee or a municipal employee. The Secretary shall be responsible for taking minutes of the Committee meetings and retaining the Committee's files, as well as working with the Borough Clerk as needed to respond to any Open Public Records Act (OPRA) requests.

- d) If any of the municipal officials serving on the Special Events Committee shall hold more than one of the offices identified for membership, (for example, the Superintendent of Public Works is the same individual as the Director of Recreation) then, in that event, the Mayor shall designate another municipal official, other than a member of the Borough Council, to serve on the Special Events Committee so as to maintain the total membership at eleven individuals.
- e) If there is no Registered Environmental Health Specialist from the Monmouth County Regional Health Commission No. 1 who is willing to serve upon the Special Events Committee, then in such an event, the Mayor shall choose a second resident of the Borough of Sea Bright, preferably one in a health related field, regardless of whether they are in the employ of the municipality, to serve on the Committee. Said resident shall be appointed with the advice and consent of the Borough Council, to serve a term no longer than one (1) year from the date of appointment.

#### **§ 38-4 – Alternate Committee Members**

- a) Alternate Member of Borough Council Serving on Committee

The Borough Council shall choose, from its membership, an alternate to serve on the Special Events Committee in the event the Council Member who was chosen to serve as the regular member of the Committee is unavailable, for any reason, to participate in a particular application.

- b) Alternate Business Owner

The Mayor shall choose, with the advice and consent of the Borough Council, an owner of a business located in the Borough of Sea Bright, who shall not be an official of or in the employ of the municipality, to serve as an alternate on the Committee in the event the Committee Member who was appointed to the Business Owner seat is unavailable, for any reason, to participate in a particular application. This alternate shall serve no longer than one (1) year from the date of appointment.

- c) Alternate Resident

The Mayor shall choose, with the advice and consent of the Borough Council, a resident of the Borough of Sea Bright, who shall not be an official of or in the employ of the municipality, to serve as an alternate on the Committee in the event the Committee Member who was appointed to the Resident's seat is unavailable, for any reason, to participate in a particular application. This alternate shall serve no longer than one (1) year from the date of appointment.

### **§ 38-5 – Conflicts**

- a) No member of the Committee shall be permitted to act on any permit application in which he or she has, either directly or indirectly, any personal or financial interest. Should any member of the Special Events Committee have such a conflict preventing their ability to impartially consider a particular permit application, that member shall be recused from hearing the application.
- b) In the event any municipal official, including the Registered Environmental Health Specialist, other than the Mayor or member of the Borough Council, has a conflict on any particular application, the Mayor (or if the Mayor is conflicted, the Borough Administrator) shall designate another municipal official from the conflicted official's department (or if there are no other individuals in that department, an official from a related department) to serve on the Committee for that particular application. The intent of this provision is that it is in the best interest of the Borough of Sea Bright to have each of the various municipal departments represented during the consideration of a permit application.
- c) In the event so many members of the Special Events Committee have conflicts on a particular application so as to prevent a quorum of the Committee from being able to meet, and due to conflicts it has proven impossible to designate a sufficient number of alternate officials as required by paragraph (b) of this section, then, in that event, the Mayor (or if the Mayor is conflicted, the Borough Administrator) shall be empowered to designate municipal officials, other than members of the Borough Council, to sit on the Special Events Committee, for that particular application, until there are the minimum number of members necessary to constitute a quorum.

### **§ 38-6 – Committee Responsibilities**

The Special Events Committee shall hold meetings on a monthly basis, or as frequently as the Chairman deems necessary, to consider those permit applications that have been referred to it by the Borough Clerk. The Committee shall also be empowered to consider any other matter referred to it by the Borough Council. All meetings shall be noticed and conducted pursuant to the provisions of Open Public Meeting Act.

Prior to hearing an application, the Borough Clerk shall prepare for the Committee Members and the Applicant a list of any local ordinances that would require a temporary waiver by the Committee were the permit application to be approved.

~~Applicants shall be granted the right to appear before the Committee to be heard on any permit application.~~

When considering whether to grant a permit application, the Committee shall take the following into consideration:

- a) The proposed special event's impact on the public health, public safety and general welfare of the public;
- b) The impact of the proposed special event on the public's enjoyment of the Borough's amenities;
- c) The impact of the proposed special event on the Borough's resources and/or services.
- d) That the proposed special event will not conflict with another proposed or scheduled special event in such a fashion that the Borough's police department and/or other departments would have insufficient manpower to provide for the public safety of the community;
- e) The manner in which the applicant intends to provide notice to neighborhoods impacted by the proposed Special Event of the occurrence of that Special Event.
- f) In the case of a Block Party, the Committee shall ensure that there is a means of ingress and egress for neighbors not wishing to participate in the Block Party.
- g) The Special Events Committee shall not consider the content of the speech, actions or event in reaching its decision on whether to grant the permit or to incorporate any stipulations, unless it determines that such stipulations meet a strict scrutiny test in conformance with the United States Constitution and the Constitution of the State of New Jersey and there is a compelling public interest in imposing such stipulations.
- h) The Special Events Committee shall consider each permit application upon its merits and shall not discriminate based upon race, creed, color, ethnicity, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, political party affiliation (or lack thereof), familial status, or marital status.

### **§ 38-7 - Special Event Escrow**

The applicant shall deposit with the Borough Clerk, at least ten (10) days prior to the date of the Special Event, an amount of money, between \$ 250.00 and \$ 5,000.00, to be determined by the Committee, based upon the municipal services needed for the size and scope of the Special Event, and which shall be held in escrow by the Borough, for the Borough's use to pay for any Borough services and/or facilities for the Special Event.

The amount of escrow set by the Committee shall be based upon the size and scope of the Special Event and the corresponding reasonably anticipated Borough costs for Borough services arising from the Special Event.

The applicant shall be responsible to pay any amount due and owing the Borough for the use of services or facilities for the event over and above the amount of escrow.

Should any funds remain in escrow following the conclusion of the Special Event, and after all costs associated with the Special Event have been paid, those monies shall be returned to the applicant.

The Special Events Committee may waive or reduce the Special Event Escrow if it determines circumstances warrant the granting of such a waiver or reduction, including, but not limited to, nonprofit or charitable organizations where no commercial activity is taking place at the Special Event.

### **§ 38-8 – Applicant’s Liability**

All Applicants seeking a permit shall be bound by all applicable Borough ordinances, rules and regulations, except in such cases where exemptions have been requested and approved by the Committee in its approval of the Special Event. The Applicant to whom the permit is issued shall be liable for all loss, damage or injury sustained by any person or property due to the negligence of the Applicant during the course of the Special Event.

The Committee shall set, based upon the size and scope of the event, an amount of liability insurance the applicant must carry in order to cover any liabilities that may occur as a result of the Special Event. If liability insurance is required, the applicant’s insurance policy shall name the Borough as an additional insured. The maximum amount of insurance coverage shall be \$ 1,000,000.00.

### **§ 38-9 – Special Conditions For Granting A Permit**

The Special Events Committee shall be empowered, as part of any permit grant, to set such special conditions, as it deems reasonably necessary, for the successful conducting of that particular special event.

### **§ 38-10 – Determination of Special Events Committee**

- a) Within five (5) business days following the hearing of any permit application, the Secretary of the Special Events Committee shall transmit the Committee’s determination as to whether the permit has been granted or denied to the Borough Clerk.
- b) If the permit has been granted, the transmission to the Borough Clerk shall include a notation as to the amount of the special event escrow, set per § 38-7 of this Ordinance, and the amount of liability insurance, set per § 38-8 of this Ordinance.



- c) The transmission shall identify any ordinances which the Committee has determined are to be waived for the Applicant during the duration of the Special Event.
- d) The transmission shall include notations of any other special conditions set by the Committee in granting the application.
- e) If the permit has been denied, the transmission to the Borough Clerk shall include a brief statement explaining the reason for denial.

#### **§ 38-11 - Borough Council's Ability to Grant or Alter Permit**

- a) Upon the showing of special circumstances, the Borough Council shall have the authority to grant a Special Event Permit without the necessity of the applicant first having to appear before the Special Events Committee.
- b) Upon the showing of special circumstances, the Borough Council shall have the authority to hear appeals from any denial of a permit by the Special Events Committee and thereafter grant the permit if such a grant is deemed warranted.
- c) Upon the showing of special circumstances, the Borough Council shall have the authority to alter any decision of the Special Events Committee, including, but not limited to, the setting of escrow and/or liability insurance amounts.

Should the Borough Council exercise any of its powers under this section, it shall follow the criteria set forth in § 38-6 of this ordinance for evaluating the proposed special event. The Borough Council shall also be empowered to set a special event escrow, as per § 38-7 of this ordinance, set a liability insurance amount, as per § 38-8 of this ordinance, or set special conditions, as per § 38-9 of this ordinance.

#### **§ 38-12 - Revocation of Permit**

The Borough Clerk, Administrator and/or Chief of Police shall have the authority to revoke a Special Event permit upon a finding of the applicant's violation of any rule, Borough Ordinance, or condition of the permit. If a permit is revoked, it may be reinstated by the revoking official if the violation is demonstrated to be rectified in a timely manner. Appeals of a revocation may be taken directly to the Borough Council.

#### **§ 38-13 - Penalty for Violation**

Any person who knowingly fails to obtain a Special Event Permit before conducting a Special Event shall be considered to have committed a misdemeanor and may be punished as such with penalties and fines consistent with Borough Ordinances.

In addition to the penalties and fines established by ordinance, the violating party may be assessed costs for any expenses incurred by the Borough as a result of said violation.

### **§ 38-14 – Enforcement**

- a) The Police Department shall, in connection with their duties imposed by law, diligently enforce the provisions of this Chapter.
- b) The Police Department shall have the authority to eject from the Special Event area any person or persons acting in violation of this ordinance or other applicable ordinances of the Borough.
- c) The Police Department shall have the authority to seize and confiscate any property, thing, or device used in violation of this Chapter.

### **§ 38-15 – Constitutional Protections**

It is not the intent of this ordinance to regulate conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas that are protected by either the Federal or New Jersey State Constitutions. Therefore, this Chapter is designed and intended to be a content-neutral time, place, and manner permitting system. The Borough's implementation of the various provisions in this Chapter shall seek to ensure compliance with the Federal and New Jersey State Constitutions. As such, the Borough Clerk, after consultation with the Borough Attorney, is empowered to waive and/or modify all fee and escrow requirements under this Chapter where strict adherence to this Chapter's provisions would act as a violation of a person's constitutional rights.

### **SECTION III**

Chapter A214, Community Center Rules, shall be deleted, in its entirety, due to the fact that the former Community Center space is no longer available for public use. The Chapter shall be replaced by a new Chapter A214 titled Public Use of Council Chambers. The new Chapter A214 shall read as follows:

#### **§ A214-1. Scheduling, reservation, fee.**

- a) The Recreation Director is hereby given the responsibility for the scheduling of all non-borough government related meetings within the Borough Council chambers.
- b) Sea Bright residents and Sea Bright organizations will be given priority in scheduling.

- c) The Recreation Director will be responsible for maintaining and posting the schedule of use.
- d) An application to reserve the Borough Council Chambers for a meeting must be completed and submitted to the Recreation Director. Applicants must be 21 years of age or older in order to reserve the Council Chambers. Proof of age will be required.
- e) Along with the application form, use of the Borough Council Chambers will require a user fee of \$ 75.00. Such fee is non-refundable unless at least two weeks' notice of a meeting cancellation is provided to the Recreation Director.
- f) No user fee will be required for meetings of those organizations operating under the auspices of the Recreation Committee, such as, but certainly not limited to, the Sea Bright Senior Citizen Group. All other rules, regulations and requirements apply.
- g) The user fee will be waived for meetings conducted by Sea Bright Borough employees, volunteer fire, first aid and elected officials. All other rules, regulations and requirements apply.

**§ A214-2. Rules and Regulations.**

- a) All persons requesting use of the Council Chambers will be responsible for the conduct of all persons attending the meeting. The laws of the State of New Jersey prohibit anyone under the legal age to order, be served, consume, or be in possession of any alcoholic beverage.
- b) The kitchen area is prohibited from use unless special arrangements are made with the Recreation Director. An additional fee of \$50 will apply for the kitchen use. Arrangements must be made at the time of application. Oven use is strictly prohibited. Refrigerator must be emptied and all garbage and recycling must be taken away by applicants.
- c) Compliance with occupancy restrictions as posted by the Fire Marshal must be adhered to.
- d) Smoking of any tobacco products is strictly prohibited inside any portion of the Borough Hall or Council Chambers.
- e) Keys. Either the Recreation Director or the Borough Police Department will provide entrance to the Borough Hall and Council Chambers and will lock the facility at the end of the meeting.

- f) In addition to the municipal parking lot behind the Borough Hall, overflow parking is permitted in the municipal parking lot situated on the easterly side of Ocean Avenue at the River Street traffic light in the center of town.
- g) No cars are to be parked in the designated "No Parking Areas."
- h) Thermostats must be turned down to 60° before leaving.
- i) Lights must be turned off and all doors locked at the conclusion of the meeting.

**SECTION IV**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION V**

This ordinance shall take effect upon its final passage and publication as required by law.

INTRODUCED: May 6, 2014

PUBLIC HEARING:

ADOPTED :

I hereby approve the adoption of this Ordinance this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
CHRISTINE PFEIFFER  
Deputy Borough Clerk

\_\_\_\_\_  
DINA LONG  
Mayor