

Chapter 6.46

PARK EVENTS

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Section 6.46.010 Applicability--Permit required for park events--Exclusions.

A. This chapter regulates park events as defined herein. No person shall conduct any park event without first obtaining a permit as provided in this chapter.

B. Issuance of a permit under this chapter does not exempt the permittee from, or constitute compliance with:

1. any requirements relating to exclusive use facilities under Section 6.36.020;
2. local, state or federal laws regulating service or consumption of food or alcoholic beverages;
3. Chapter 13.40 of this code regulating amplified sound;
4. and any park rules or City ordinances applicable to parks; or
5. any other applicable local, state or federal law.

Every permit issued under this chapter is expressly conditioned on compliance with all other applicable laws.

C. 1. No park event may involve the sale, service or consumption of any alcoholic beverage other than beer, wine and champagne. References in this chapter to "alcoholic beverages", "alcohol" or "liquor" include only beer, wine and champagne.

2. No park event in a park which contains a recreation facility or program, or is adjacent to an elementary, middle or high school may involve the sale, service or consumption of alcoholic beverages at any time when the recreational facility or program or school is operating.

D. This chapter does not apply to:

1. events in indoor facilities;
2. spontaneous, unorganized assemblies which are neither sponsored, organized, promoted nor advertised by any person or organization, and do not involve amplified sound.

E. This chapter additionally does not apply to events in Aquatic Park or other parks that are authorized pursuant to any lease to which the City is a party or by a license or permit issued by the City under any other authority, to the extent that its application would be inconsistent with such leases or licenses. However it is the policy of the City that the standards and requirements of this chapter should be used as a guide to any future leases or licenses for property in parks. (Ord. 6579-NS § 2, 2000)

Section 6.46.020 Definitions.

A. "City Manager" shall mean the City Manager of the City of Berkeley and any designee of the City Manager, except as context dictates otherwise.

B. "Major park event" means park events which:

1. involve pyrotechnics or other hazardous activities;
 2. require the closure or partial closure of an arterial or collector street as defined in the City of Berkeley General Plan or the re-routing of public transportation;
 3. involve a planned or likely attendance of more than 150 persons;
 4. require an amplified sound permit, a temporary food vendor permit or a liquor license; or
 5. for which admission will be charged.
- C. "Park" shall have the meaning set forth in Section 6.42.030.A of this code.
- D. "Park event" means any demonstration, assembly, festival, fair, concert, or any other gathering of 50 or more persons over the age of 12 years at the same time and for the same collective purpose within an area circumscribed by a 500 foot radius, in any park other than Cesar Chavez Park or Civic Center Park. In Cesar Chavez Park, Civic Center Park and any other park or part thereof which is regularly used for organized sporting events, "park event" shall mean any demonstration, assembly, festival, fair, concert, or any other gathering of 100 or more persons over the age of 12 years at the same time and for the same purpose within an area circumscribed by a 500 foot radius. (Ord. 6579-NS § 2, 2000)

Section 6.46.030 Park event permits--Application--Information required--Timing.

- A. Application for a permit for a park event shall be made to the City Manager.
- B. Application for park events shall be made at least five (5) business days prior to the park event. Applications for major park events shall be made at least ten (10) business days prior to the major park event.
- C. The application for such permit shall be made in writing on a form approved by the City Manager. In order that adequate arrangements may be made for the proper policing of the park event the application shall contain the following information, as applicable:
1. The name, address and telephone number of the applicant(s), including photo identification. If the park event will be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized head of such organization. Where a park event will be conducted for, on behalf of or by an organization, the organization will be considered a co-applicant;
 2. The name, address and telephone number of all persons who are or will be responsible for the promotion and conduct of the park event, including a photo identification of each and effective means by which to reach them during the event, such as cell phone and pager numbers and likely location during the park event;
 3. A description of the park event, including its purpose and the number of people expected to attend;
 4. The date(s) of the park event;
 5. The estimated times that the park event will start and terminate, including assembly and disassembly involving the use of public property;
 6. The number and kind of vehicles, animals, musical instruments, sound units, and any other equipment that produces sound or noise during the park event that will be involved in the park event, and whether amplified sound is proposed. In the event the applicant seeks or needs an amplified sound permit, a temporary food permit, a facility rental or a temporary liquor license, the application for the park event should, but need not, be accompanied by copies of applications for such permits and/or licenses.
 7. A statement whether the park event will occupy all or only a portion of the park;
 8. The number and location of portable sanitation facilities and other equipment and services proposed for participants, if applicable;
 9. A description of arrangements that have been made for first aid or emergency medical services, or both, if applicable;
 10. A description of arrangements that have been made for security, including the name of the security contractor;
 11. Insurance and surety bond information, if applicable;
 12. A fully refundable cleaning deposit in the amount set by resolution of the City Council; and
 13. Such other information, in conformity with the requirements of this chapter, as the City Manager may reasonably require. (Ord. 6579-NS § 2, 2000)

Section 6.46.040 Late applications.

A. Any application received after the deadlines established in Section 6.46.030 is a late application. The City Manager shall not accept late applications unless he/she finds that:

1. the proposed park event is in response to an occurrence whose timing did not reasonably allow the applicant to file a timely application; or
2. the imposition of the time limitations would place an unreasonable restriction on the free speech rights of the applicant.

B. When the City Manager finds both of the above conditions to exist, he/she shall accept the application and process it in accordance with this chapter, unless it does not meet the criteria set forth in Section 6.46.030 or there is insufficient time for the City to make necessary preparations for traffic control or other public safety matters prior to the proposed date. (Ord. 6579-NS § 2, 2000)

Section 6.46.050 Permits--Standards for issuance or denial--Notification--Regulations.

A. The City Manager shall issue a permit for a park event unless one or more of the following conditions exist:

1. The application is incomplete for failure to provide the information required by Section 6.46.030.
2. The information contained in the application, including supplemental information, if any, is found to be false in any material respect, the purpose of the event is contrary to law, and/or the applicant has failed to meet the City requirements for a permit.
3. A prior application for an event to be held at the same time and place has been granted.
4. The park event will unduly interfere with vehicular ingress to, egress from, or travel on a freeway, state designated highway, or major arterial or collector street of the City.
5. The park event will unreasonably interfere with fire or police protection, or public safety, including presenting a substantial or unwarranted traffic or safety hazard.
6. The park event would involve a number of people exceeding the capacity of the park for which it is proposed or would involve amplified sound contrary to regulations promulgated by the City Manager for that park.
7. The security arrangements that have been made are inadequate or the contractor that will be providing security is not qualified.
8. One or more of the applicants or persons whose name is shown on the application was also named on an application for a park event in Berkeley that resulted in a violation of this chapter as described in Section 6.46.120.B within the prior twelve (12) months or was responsible for an event in a park in any other jurisdiction that resulted in comparable problems prohibited by local law in that jurisdiction within the last twelve (12) months.

B. The applicant shall be notified in writing of the action of the City Manager in granting or denying the permit at least one day prior to the date of the proposed event, unless the application was made late, in which case notification shall be given as soon as reasonably possible and by any reasonable means.

1. If the permit is denied, the written notice briefly shall set forth reasons explaining the denial.
2. If the permit is denied pursuant to the criteria set forth in this chapter, because the proposed time or assembly and dispersal sites are unacceptable, the denial shall contain a statement of alternative acceptable times and sites.

C. The City Manager may issue regulations detailing the limitations for each park that implement this section, including regulations addressing park capacity, the permissibility and duration of amplified sound and requirements for the maintenance of accessibility during park events. (Ord. 6579-NS § 2, 2000)

Section 6.46.060 Appeal procedure following denial or late filing of application.

Any decision by a designee of the City Manager to deny a permit under this chapter or to reject a late application may be appealed to the City Manager by letter within five (5) working days. The City Manager shall render a written decision on the appeal within one (1) working day thereafter, but in no event later than the time of the proposed event. If the initial decision was by the City Manager, it shall be final. (Ord. 6579-NS

§ 2, 2000)

Section 6.46.070 Park event permit--Content--Restrictions--Limitations.

A. A park event permit shall contain the information given in the application and may impose reasonable time, place, and manner restrictions to ensure that the park event will not pose a traffic or safety hazard or unreasonably interfere with fire or police protection services. The restrictions shall be in conformity with the requirements of this chapter and shall provide only for such modification of the proposed park event as is necessary to achieve compliance with this chapter. Such restrictions may include, but are not limited to, requiring the applicant to:

1. Maintain a twelve foot wide emergency access lane at all times;
2. Provide first aid stations and teams within the closed-off area to provide emergency medical aid to participants;
3. Provide portable sanitation facilities and other equipment and services;
4. Provide barricades to close off streets or other areas;
5. Provide sufficient signs and directional arrows to divert traffic and arrange for A.C. Transit and other public transit detours, subject to the approval of the City Traffic Engineer;
6. Provide monitors for crowd control and security at the rate of one unarmed security person per twenty-five (25) attendees and establish liaison with the police department concerning security. Security shall only be required for major park events;
7. Distribute flyers throughout the surrounding areas in advance of the park event, notifying the affected residents and business people of any street closure associated with the park event;
8. Clean all debris and litter from the park, street and sidewalk area within four hours after the conclusion of the event;
9. If an amplified sound permit is granted, provide and utilize a sound level meter to monitor compliance with Chapter 13.40 of the Berkeley Municipal Code;
10. If alcoholic beverages are to be sold at the event, obtain the appropriate license from the State Department of Alcoholic Beverage Control, follow responsible beverage service practices and provide security adequate to maintain order, as determined by the Chief of Police.
11. Include in all advertisements about the event a notice that parking in the area of the event is limited, encouraging attendees to take public transit, and notifying them of relevant public transit information.

B. Applicants shall carry the permit during the park event and shall show it, upon demand, to any City employee.

C. The City Manager may require as a condition of a permit that park events involving over 100 persons may be monitored by City staff, provided that this condition is not imposed on the basis of any communicative characteristic of the proposed park event.

D. Parks in which park events occur shall remain open to the public during the park event, to the extent consistent with the park's capacity and to the maximum extent feasible given the nature of the park event. No park shall be closed to the public during a park event absent express permission to do so in a permit issued under this chapter.

E. All park events shall end no later than 10:00 p.m.

F. Permittees shall ensure that accessibility for persons with disabilities is not impaired by the park event. (Ord. 6579-NS § 2, 2000)

Section 6.46.080 Cancellation and revocation of permits.

A. The City Manager may revoke a permit at any time, if he/she determines that as a result of inclement weather conduct of a park event would unreasonably damage the park for which it is proposed.

B. The City Manager may revoke a permit at any time, if he/she determines that any provision of this chapter or any condition of the permit has not been met or is being violated, or if a person responsible for the promotion or conduct of the park event was not shown on the application. The applicant may appeal any revocation as provided in Section 13.45.060. (Ord. 6579-NS § 2, 2000)

Section 6.46.090 Indemnification--Security deposits.

A. The permit holder shall indemnify and hold harmless the City of Berkeley, its officers, agents, employees and volunteers, from any and all claims, causes of action, penalties, losses, expenses (including reasonable attorneys' fees) and any other liability for injuries or damage to persons or property resulting from the event which were caused by the omissions or authorized acts of the permittee's officers, agents or employees.

B. If City property is destroyed or damaged by reason of a park event, the permittee shall reimburse the City for the cost of those repairs deemed necessary by the City. The City may retain the security deposit as full or partial reimbursement for any such damage. (Ord. 6579-NS § 2, 2000)

Section 6.46.100 Insurance--Exemption.

A. For major park events, other than those which are major park events solely because of the number of attendees, the permittee must obtain insurance in the amount of one million dollars (\$1,000,000) for the duration of the major park event, which names the City of Berkeley, its officers, agents, employees and volunteers as additional insured. For all other park events, the City Manager may require insurance in an amount appropriate to the event. The amount of insurance required shall not be based on the existence or content of any expression involved in the event, or on the expected reactions of observers.

B. No permit applicant shall be required to comply with the insurance requirement of this section if the proposed park event is protected by the First Amendment to the United States Constitution and the applicant produces evidence that complying with the insurance provision is impossible or so financially burdensome that it would preclude the proposed event from occurring.

C. If insurance is required pursuant to this section, a certificate of insurance shall be provided to the City and must be approved as to form and sufficiency by the City no later than two days before the event. If the applicant is unable to obtain insurance or does not provide the City with the certificate of insurance, the City Manager may obtain such insurance on behalf of the permit applicant and charge the permit applicant for the cost. (Ord. 6579-NS § 2, 2000)

Section 6.46.110 Fees.

A. The City Council may establish by resolution the fees that shall be charged for permits issued under this chapter. Said fees may include the cost of monitoring events pursuant to Section 6.46.070.C.

B. If a permittee is unable to hold or conduct an event because of inclement weather or due to some other cause not within the permittee's control, and the permittee submits written request for the refund of such fees to the City Manager's office within ten (10) days after the date that the event was to have been held or conducted, the City Manager may authorize the refund of any fees that are not necessary to reimburse the City's expenses of preparation for the park event, except for non-refundable application fees, if any.

C. Any indigent person who cannot apply for a permit because of an inability arising from such indigence to pay the application fee, shall not be required to pay the fee. Applications for indigent status shall be made upon application for the permit and shall be accompanied by such relevant information and documentation as is reasonably necessary to verify indigence. For purposes of this section, an indigent person is one who is eligible for county relief pursuant to Sections 17000 et seq. of the Welfare and Institutions Code. (Ord. 6579-NS § 2, 2000)

Section 6.46.120 Violation--Penalty.

A. Violation of this chapter is a misdemeanor punishable as set forth in Chapter 1.20 of this code, but may be charged, in the discretion of the prosecutor, as an infraction.

B. In addition to any other remedy, the City Manager or Director of Parks & Waterfront may impose an administrative penalty of up to \$10,000 on any person, whether or not he or she has obtained a permit under this ordinance:

1. who conducts a park event in such a manner that it results in a disturbance of any kind that requires the assignment of six Berkeley Police Department patrol officers after 11:00 a.m. and before 2:00 a.m., or

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three Berkeley Police Department patrol officers at any other time, to quell such disturbance.

2. makes any material misrepresentation or omission on his or her application which bears on security, management or crowd control in such a manner as to contribute to a disturbance described in paragraph B.1. of this section; or

3. violates any condition of his or her permit which bears on security, management or crowd control in such a manner as to contribute to a disturbance described in paragraph B.1. of this section.

C. No penalty may be imposed under this section without affording the person or persons on which the penalty is to be imposed reasonable notice and an opportunity to be heard by the City Manager or his/her designee.

D. 1. Any penalty imposed under this section may be appealed to the City Council within 10 days of the date written notice of that penalty is mailed to or otherwise provided to the person who is the subject of the penalty. An appeal must be in writing and must state all of the reasons for the appeal. Failure to appeal the City Manager's decision to impose a penalty shall be deemed consent to the penalty and a waiver of all rights to challenge it.

2. The appeal shall be placed on the Council agenda at the earliest feasible date. The Council may affirm or reverse the City Manager's decision on the basis of the written record before it, or may set the matter for hearing. If the Council takes no action within 30 days after the appeal first appears on its agenda, the City Manager's decision shall be deemed affirmed.

E. No penalty may be imposed under this section based on the behavior of persons not attending the event or based on the reactions of observers or bystanders to any communicative aspect of the event. (Ord. 6579-NS § 2, 2000)