

**AN ORDINANCE TO AMEND AND REENACT
THE CHRISTIANSBURG TOWN CODE BY AMENDING CHAPTER 26,
PUBLIC SAFETY BY ENACTING ARTICLE VI. SPECIAL EVENTS AND
OTHER OUTDOOR ASSEMBLIES**

WHEREAS, notice of a public hearing before the Christiansburg Town Council concerning this ordinance was published two consecutive weeks (January 30, 2019 and February 6, 2019) in The News Messenger, a newspaper published in and having general circulation in the Town of Christiansburg; and,

WHEREAS, a public hearing before the Town Council was held on February 12, 2019; and,

WHEREAS, the Town of Christiansburg recognizes and applauds the freedom provided to all citizens of the United States to freely assemble; and

WHEREAS, the purpose of this ordinance is to set forth the processes, procedures and standards to be used in governing the use of public property for the purposes of conducting special events and other outdoor activities while ensuring public order and safety; and

WHEREAS, this ordinance is intended to protect the rights of persons and groups to organize and participate in peaceful assemblies to express their political, social, religious, or other views on streets, sidewalks, parks, and other public lands, subject to reasonable time, place and manner restrictions; and

WHEREAS, the provisions of this ordinance, and any rules and regulations adopted pursuant to these provisions, shall be applied without regard to the content of the beliefs or sentiments expressed or anticipated to be expressed during any permitted event;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Christiansburg, Virginia, that Chapter 26, Public Safety of the Christiansburg Town Code be amended and reenacted by enacting Article VI, Special Events and Other Outdoor Activities of the *Christiansburg Town Code* be amended as follows:

ARTICLE VI. - SPECIAL EVENTS AND OTHER OUTDOOR ACTIVITIES

Division 1 - Generally

Section 26-250. - Purpose of Article.

- (a) The town council enacts this Article for the purpose of regulating the time, place and manner of special events and demonstrations to accommodate competing demands for the public use of public promenades, sidewalks, streets and other public places. Regulation is necessary to preserve the public peace and safety, to permit free expression on issues of public concern, to protect persons and property, to maintain acceptable conditions of traffic flow upon the streets and sidewalks and to prevent,

control or eliminate any potential illegal, injurious or dangerous effects of this lawful activity.

(b) The town council does not enact this chapter, or seek through its enforcement, to deny or abridge any person's rights of assembly and free speech or the opportunity for communication of thought and discussion of public questions in public places.

State Law reference— Power of town to promote public peace, safety, comfort and welfare, Code of Virginia, § 15.2-1102.

Section 26-251. - Special events; permit required.

(a) *Events for which permit required.* No person or entity shall conduct any of the following special events or activities unless a permit has been granted by the town:

- (1) Parades, processions, marathons, bicycle races and other events utilizing the sidewalks or vehicular travel portion of town streets and highways.
- (2) Motion picture, video or broadcast television productions, other than news media, involving the staging of vehicles, equipment, props or personnel on public property, including buildings, public promenades, sidewalks, or streets, or requiring the use of town equipment or services. This subsection shall not apply to an individual taking videos or photographs of events which occur without staging.
- (3) Activities or events requiring a variance from the regulations for parks promulgated by the director of parks and recreation.
- (4) Any demonstration or protest utilizing the vehicular travel portion of any town street or highway.

(b) *Application contents and fee.* An application for any permit required by this section shall be made to the town manager or the manager's designee, accompanied by a nonrefundable processing fee as provided in section 26-252. The application shall be submitted not less than forty-five (45) days nor more than six (6) months prior to the date of the proposed activity. An application for a major event (one involving the closure of more than three (3) blocks or which will last more than two (2) days) shall be filed not less than ninety (90) days nor more than one (1) year before the first date of the proposed activity. The application shall contain the following information, utilizing a form provided by the town manager:

- (1) Description of the proposed activity;
- (2) Date, time and location/route of proposed activity and the anticipated number of participants and spectators;
- (3) Provisions for sanitation facilities, crowd, noise and traffic control, ADA compliance, parking and loudspeaker placement;
- (4) Food and beverages to be sold or distributed;

- (5) The designation of an individual or individuals who shall be responsible for ensuring compliance with the provisions of this section and the conditions of the permit and who shall be present at all times during the event;
- (6) Proposed equipment, vehicles, staging, bleachers, shelters and electricity requirements;
- (7) If revenue is anticipated to be generated by the activity, the individuals or entity that will benefit therefrom;
- (8) Such additional information or assurances as the town manager may require.

(c) *Application submission and processing requirements.*

- (1) A completed application shall be processed and either granted or denied within a reasonable time of receipt, but not more than thirty (30) days from the receipt of any application requiring forty-five (45) days' advance filing or twenty-five (25) days from the receipt of any application requiring ninety (90) days' advance filing. Such decision shall be in writing, setting forth the conditions of the permit, if granted, or the reasons for denial. The decision shall be provided to the applicant at the address stated in the application.
- (2) If an application is submitted after the filing deadline set forth in subsection (a), the town manager or the manager's designee may modify the requirements of subsections (a) and (b) upon a demonstration by the applicant, in writing, that circumstances giving rise to the proposed event did not reasonably allow the applicant to apply for a permit within the time prescribed.

(d) *Permit approval process.*

- (1) The permit shall be granted by the town manager if the following conditions are met:
 - (i) Any proposed use of public property, right-of-way, or facilities will have a public benefit (and not be primarily for one (1) group or organization's private use) and not unreasonably interfere with the normal use of the property, right-of-way or facility by the town or the general public;
 - (ii) The proposed activity does not present a safety or health risk to participants, spectators or the public, or an environmental hazard;
 - (iii) The proposed activity is compatible with the surrounding area or neighborhood, in consideration of anticipated noise, traffic, crowd capacity and other identifiable factors; and
 - (iv) The applicant has provided proof of liability insurance underwritten by insurers acceptable to the town, indemnifying the town against any perils, suits, claims and losses which may arise in connection with the proposed activity. Such coverage shall be in amounts consistent with a standard schedule approved by the town manager, based upon risks associated with each type of event, in consideration of anticipated attendance.
- (2) When the grounds for anticipated denial of an application can be corrected by altering the date, time, duration, route or location of the event, the town manager

or the manager's designee may conditionally approve the application, subject to the applicant's acceptance of such conditions. Any conditions so imposed shall provide only for such modification of the applicant's proposal as may be necessary to achieve compliance with this section.

- (3) Prior to the final denial of any application, the applicant shall be apprised of the reason therefore and shall be entitled to a hearing before the town council.
- (e) *Permit requirements.* The town manager or the manager's designee may impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace and order. Such conditions may include, but are not limited to the following:
 - (1) The payment of a reasonable fee for the use or allocation of town property, equipment and personnel not exceeding the actual costs incurred by the town in connection with the proposed activity; and the posting of a performance bond or other surety securing payment of such fee.
 - (2) The provision of adequate crowd and traffic control, security, fire protection, food handling, sale and consumption of alcohol, waste and refuse disposal, and noise restrictions.
- (f) *The town manager, or the manager's designee, shall be authorized to revoke or suspend any permit previously granted:*
 - (1) For any material violation of any provisions of this section or of any condition of the permit;
 - (2) For any material misrepresentation, intentional or otherwise, made in connection with the application;
 - (3) When weather conditions render the subject activity unsafe; and
 - (4) When otherwise reasonably required in the interest of public health, safety and welfare or environmental considerations. In the event a permit is revoked or suspended, the permittee shall immediately discontinue, or cause to be discontinued, the activity for which the permit was granted, but shall thereafter be entitled to a hearing concerning the revocation or suspension decision as provided by subsection (d)(3) above.
- (h) Any permit granted under the provisions of this section shall remain in effect for the duration of the proposed activity, except as provided for in the preceding subsection (g).
- (i) The granting of any permit required by this section shall not eliminate any requirement for any business license, any other permit(s) which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations, or compliance with any other applicable federal, state or local statutes, ordinances, rules or regulations
- (j) The town manager may designate one (1) or more officers or employees of the town to administer the provisions of this section. The town manager is authorized to

develop administrative directives or standard operating procedures to implement this article.

(k) Any person who shall violate any provision of this section shall be guilty of a Class 3 misdemeanor.

Section 26-252. – Special event processing fee.

A nonrefundable processing fee, as follows, shall be submitted with the completed application for a special event:

- (a) Festival, art show or event held for two (2) or more consecutive days \$150.00
- (b) Commercial motion picture or television production for one (1) day 75.00
- (c) Activities or events requiring a variance from park regulations 50.00

Division II. – Picketing and Demonstrations.

Section 26-253. - Definitions.

The terms *picket*, *picketer(s)* and *picketing* as used herein are deemed to include "demonstrators," persons participating in vigils and any action primarily promoting or objecting to a policy upon those portions of the public ways not used primarily for vehicular parking and moving traffic and not constituting a parade.

Section 26-254. - Picketing permitted; notice of intent and receipt required.

Peaceful picketing shall be permitted in the town provided the same is done under the following conditions:

- (a) No picketing shall be conducted on the public ways of this town and no person shall participate in the same unless notice of intent to picket has been given to the chief of police or the chief's designated representative, and unless a receipt of such notice has been issued.
- (b) A group of fewer than ten (10) persons may give written notice of intent to picket but is not required to do so. A group of ten (10) to twenty-four (24) persons shall give notice in writing and the notice given shall contain the following information:
 - (1) The name, if any, of the organization or group sponsoring or proposing to picket;
 - (2) The location or locations in the town where the pickets propose to assemble and demonstrate;
 - (3) The date or dates on which the picketing is to occur and the approximate times;
 - (4) The name of the person and organization giving notice of intent to picket, as well as contact information (such as a working telephone number or e-mail);

- (5) Whether or not persons below the age of eighteen (18) years are expected to participate; and
- (6) The person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times. Such person shall be required to be present at all times during the picketing or demonstration event.
- (7) Upon receiving a notice set out, the Town Manager or his designee shall immediately issue a picketing registration. The registration shall contain all information stated in the notice. Notice shall be given by the registration holder to the Town Manager or his designee immediately upon the cessation of such picketing for a period of twenty-four (24) hours or more. Before resumption of picketing interrupted for any such period, a new notice shall be given and a new registration issued.

(c) Picketing or demonstrating on town property such as parks or streets of twenty-five (25) or more people shall be required to apply for a picketing permit on an application form provided by the Town. The application shall be submitted not less than forty-five (45) days nor more than six (6) months prior to the date of the proposed activity. An application for a major event (one involving the closure of more than three (3) blocks or which will last more than two (2) days) shall be filed not less than ninety (90) days nor more than one (1) year before the first date of the proposed activity.

Section 26-255. – Permit approval process.

(a) The permit shall be granted by the town manager if the following conditions are met:

- (i) Any proposed use of public property, right-of-way, or facilities will have a public benefit (and not be primarily for one (1) group or organization's private use) and not unreasonably interfere with the normal use of the property, right-of-way or facility by the town or the general public;
- (ii) The proposed activity does not present a safety or health risk to participants, spectators or the public, or an environmental hazard;
- (iii) The proposed activity is compatible with the surrounding area or neighborhood, in consideration of anticipated noise, traffic, crowd capacity and other identifiable factors; and
- (iv) The applicant has provided proof of liability insurance underwritten by insurers acceptable to the town, indemnifying the town against any perils, suits, claims and losses which may arise in connection with the proposed activity. Such coverage shall be in amounts consistent with a standard schedule approved by the town manager, based upon risks associated with each type of event, in consideration of anticipated attendance.

(b) When the grounds for anticipated denial of an application can be corrected by altering the date, time, duration, route or location of the event, the town manager or the manager's designee may conditionally approve the application, subject to the applicant's acceptance of such conditions. Any conditions so imposed shall provide only for such

modification of the applicant's proposal as may be necessary to achieve compliance with this section.

(c) Prior to the final denial of any application, the applicant shall be apprised of the reason therefore and shall be entitled to a hearing before the town council.

(d) Exceptions.

- (i) The requirements for insurance and for payment of fees for the use or allocation of town property, equipment and personnel authorized by this section shall not be imposed for any noncommercial gathering, parade or procession held for purposes of expressive activity, upon demonstration, in writing, that the applicant is financially unable to pay the costs of such fees and services and that the right to engage in expressive activity would be unreasonably curtailed by failure to waive such requirements. However, insurance may be required for collateral activities such as food service and the use of structures and equipment that present a demonstrable risk or hazard.
- (ii) Upon demonstration that the enforcement of the provisions of Section 26-254 would unreasonably restrict the right of free expression, the town manager shall waive or reduce the time prescribed for advance notice of an event and impose only such provisions as will not unreasonably restrict the element of timeliness of the expressive activity
- (3) For purposes of this Division, expressive activity shall include any picketing or demonstration utilizing town streets or parks, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment of the Constitution of the United States.
- (4) At times, demonstrations may occur spontaneously in response to newsworthy or other high profile events. Such an event may occur without a permit if (i) it is an otherwise lawful assembly conducted in accord within sections 26-256 and 26-257, (ii) it will not unreasonably interfere with other previously permitted or scheduled events, and (iii) it does not block public streets or threaten public safety. Demonstrations that develop in response to a newsworthy event more than forty-eight (48) hours after the event will not qualify as spontaneous demonstrations, even without prior planning or announcement, and sponsors of events outside this time period must apply for and receive a permit in accordance with this article.

Sec. 26-256 - Standards of conduct.

- (a) Picketing shall be conducted only on portions of the public ways not used primarily for vehicular parking or moving traffic.
- (b) Picketers may carry written or printed placards or signs; however, such written or printed placards or signs shall not at any time nor in any way (i) be detached from any supporting poles or rods or (ii) obstruct, interfere with, or block the sidewalk or public way. Pickets may not carry (i) clubs, sticks or similar items, (ii) wear masks as prohibited by Virginia Code § 18.2-422, (iii) carry shields or (iv) use pepper spray or similar items as prohibited by Virginia Code § 18.2-312. Candles are permitted but torches or any other burning substances attached to a stick or rod are not.

- (c) If picketers promoting different objectives, causes, actions or policies desire to use a sidewalk that is already used for picketing, the chief of police or the chief's designated agent shall allot a number of picketers promoting each objective to use such sidewalk on an equitable basis, proportionate to the number of objectives being promoted.
- (d) Picketers shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.
- (e) No person observing, engaging in, or assisting in picketing shall bring any vicious animal to, or allow it to remain in the immediate picketing area.
- (f) It shall be unlawful for a group of ten (10) or more persons to picket without filing a notice as required herein.

Section 26-257. - Interference with picket prohibited; police authority to disperse crowds.

- (a) Picketers or demonstrators promoting different objectives are subject to the restrictions in preceding section 26-256(b). It shall be unlawful for any person to physically interfere with picketers in the use of the sidewalk or to address profane, indecent, abusive, or threatening language to or at those picketers which would tend to provoke the picketers or others to a breach of the peace.
- (b) Town police officers may, in the event of the assemblage of persons in such numbers as to tend to intimidate picketers pursuing their lawful objective through numbers alone or through use of inflammatory words, threats of violence or violence, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself or herself from the place of such assemblage when so directed by the police. To preserve public safety, peace or order, the chief of police, or the chief's designee, may also physically separate hostile groups of persons promoting different causes through the use of barricades or similar devices as required to keep hostile groups apart from one (1) another.
- (c) Whenever the free passage of any street or sidewalk shall be obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.
- (d) The town manager is authorized to develop administrative directives or standard operating procedures to implement this article.

Section 26-258. - Penalty for violation.

The provisions of this division are mandatory, and not merely directory, and failure to comply with its provisions is hereby declared to be unlawful and punishable as a Class 3 misdemeanor.

Upon a call for an aye and nay vote on the foregoing ordinance at a regular meeting of the Council of the Town of Christiansburg, Virginia held March 12, 2019, the members of the Council of the Town of Christiansburg, Virginia present throughout all deliberations on the foregoing and voting or abstaining, stood as indicated opposite their names as follows:

| <u>MEMBER</u> | <u>AYE</u> | <u>NAY</u> | <u>ABSTAIN</u> | <u>ABSENT</u> |
|--------------------------|------------|------------|----------------|---------------|
| Samuel M. Bishop | X | | | |
| Harry Collins | X | | | |
| Steve Huppert | X | | | |
| Merissa Sachs | X | | | |
| Henry Showalter | X | | | |
| Bradford J. Stipes | X | | | |
| Mayor D. Michael Barber* | | | | |

*Votes only in the event of a tie.

D. Michael Barber
D. Michael Barber, Mayor

Michele M. Stipes
Michele M. Stipes, Town Clerk