

**BERRYVILLE TOWN COUNCIL PUBLIC SAFETY COMMITTEE
MEETING AGENDA
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Meeting Room A/B
Regular Meeting
June 26 2019
2:00 pm**

Item

Attachment

1. Call To Order Donna McDonald, Chair

2. Approval of Agenda

3. Department Update Neal White, Chief

4. Town Code Review Update 1

Chapter 20

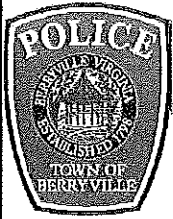
5. Closed Session No Closed Session Scheduled

6. Other

7. Adjourn

‡ Denotes an item on where a motion for action is included in the packet

Attachment 1



Berryville Police Department

101 Chalmers Ct., Suite A, Berryville, Virginia 22611

policeadmin@berryvilleva.gov

(540) 955-3863 (540) 955-0207 (Fax)

W. Neal White – Chief of Police

MEMO

DATE: 05/20/2019 **2019-017**
TO: Public Safety Committee
FROM: Chief W. Neal White
CC:
RE: Special Events and Demonstrations

In advance of the June 26, 2019 Public Safety Committee meeting I wanted to get all the documents associated with the Special Events and Demonstrations Regulations into your hands for a final review in preparation for a Council recommendation. With this memo you will find attached:

Town of Berryville Special Events and Demonstrations Regulations

Special Events and Demonstrations Forms

Revision to Town Code sec. 10-7

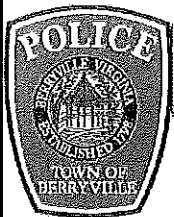
Revision to Town Code sec. 9-34

Revision to sec. 10-7

Language is recommended to be added in subsection (b) 5 to authorize the Town Manager to close streets for the purposes of special events and demonstrations. This language was authored and reviewed by legal counsel.

Revision to sec. 9-34

The changes to chapter 9 will align language in the Special Events and Demonstrations Regulations concerning carnivals and circuses. You will not that State Code allows for municipalities to adopt the recommended Town Code language. Since carnivals and circuses are referenced in the Special Events and Demonstrations Regulations, I feel that it would be wise to add this language to the Town Code.



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W. Neal White – Chief of Police

To better align Chapter 9, I would recommend that existing sec. 9-34 be repealed and designated sec. 9-40. I would further reserve sections 9-35 through 9-39 for future additions to the chapter.



Regulations for Special Events and Demonstrations

05/2019

The following document establishes new guidelines concerning processes associated with events and demonstrations conducted on public property. These guidelines and processes reference existing ordinances of the Town of Berryville, State Code, Planning and Zoning Ordinances of the Town of Berryville and Clarke County Building Department Regulations.

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Regulations for Special Events and Demonstrations on Town Property

I. PURPOSES

To establish procedures and standards governing the use of public property by non-Town organizations and individuals for the purpose of conducting events, and to ensure the preservation of public convenience in the use of town streets and outdoor areas, the preservation of public order and safety, and the defraying of administrative expenses associated with certain types of uses.

To protect the right of persons and groups to organize and participate in peaceful assemblies to express their political, social, religious, or other views on Town streets, sidewalks, other public ways, parks, and other public lands, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in such assemblies in not having their ability to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town park for recreational purposes, and other Town lands for their intended purposes unreasonably impaired.

II. TOWN DEPARTMENTS/ORGANIZATIONS AFFECTED

The Town Manager, directly or through the Town Clerk, shall manage the scheduling of events on Town-owned property. The Town Planning Department, Police, Public Works, Virginia Department of Transportation (VDOT), John H. Enders Fire & Rescue, and Clarke County Fire & Rescue shall have an opportunity to review event applications and propose reasonable time, place and manner modifications thereto and conditions thereon in keeping with these ordinances and the purposes stated in section I above.

III. POLICY

A. Definitions

"Advertising" and "Advertisement" shall mean anything containing any words, symbols, pictures and/or logos directing attention to any business or to any commodity or service for sale to the public; excluding, however: (i) a price sign, a sign or logo identifying the name of a vendor and item being sold by that vendor, when such signs are located within an area specifically delineated as part of an event and the vendor holds a valid permit, (ii) a sign or logo naming the sponsor(s) of an event, and (iii) stands or vehicles with semi-permanent or permanently installed signs, if being used for authorized recreational activities or events.

"Commercial Activity" means performing services or providing goods that can normally be obtained from private enterprise.

"Community event" shall mean events designated by Town Council or Town Manager as "community events" from time to time.

"Demonstration" shall refer to non-commercial expressions protected by the First Amendment of the United States Constitution (such as picketing, political marches, speechmaking, vigils, walks, etc.) conducted on public property, the conduct of which has

the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual activity by persons which does not have the intent or propensity to attract a crowd or onlookers.

"Event" may refer to a demonstration, community event or a special event, or to demonstrations, community events and special events, collectively.

"Events Liaison" means the Town Clerk, or another person designated by the Town Manager.

"Open burning and open fire" have the same meaning as set forth in the Berryville Town Code § 6-1.

"Open flame" means fire whose flame is supported by wick, oil or other slow burning means to sustain itself. "Open flame" includes, but is not limited to, flame producing devices such as candles, torches, and juggling or other fire artist equipment; provided, however, that "open burning and open fire" and "open flame" shall not include handheld candles when used for ceremonial purposes, provided that they are not held or used in an intimidating, threatening, dangerous or harmful manner.

"Person" shall mean and include any individual, corporation, Limited Liability Company, partnership, limited partnership, association, company, business, non-profit company, trust, joint venture or other legal entity.

"Prohibited items" shall mean (i) all items prohibited by law from being held, carried, displayed, worn or otherwise used in public, (ii) items banned from public or park lands, (iii) any BB guns, pellet guns, air rifles or pistols, paintball guns, pellet guns, nun chucks, tasers, stun guns, heavy gauge metal chains, lengths of lumber or wood, poles, bricks, rocks, metal beverage or food cans or containers, glass bottles, axes, axe handles, hatchets, ice picks, acidic or caustic materials, hazardous, flammable, or combustible liquids, dogs (except service dogs), skateboards, swords, knives, daggers, razor blades or other sharp items, metal pipes, pepper or bear spray, mace, aerosol sprays, catapults, wrist rockets, bats, sticks, clubs, drones, explosives, fireworks, open fire or open flames, or other item considered an "implement of riot", (iv) any items capable of inflicting bodily harm when these items are held or used in an intimidating, threatening, dangerous or harmful manner, and (v) law enforcement or military-like uniforms or uniform-like clothing, badges, insignia, shields, hats, helmets, masks, equipment and other items that when held, carried, displayed or worn tend to suggest or imply that the wearer is a current member of law enforcement, the military, a private militia, or other public safety organization, such as a fire department or emergency medical services agency.

"Special event" shall refer to sports events, pageants, celebrations, historical reenactments, circus, carnivals, music festivals and other entertainments, exhibitions, dramatic presentations, fairs, festivals, races (i.e., runs/walks), block parties, parades and other, similar activities, conducted on public property, which (i) are not demonstrations, and (ii) are engaged in by 25 or more persons. The term "special event" shall be construed to include a community event or private organization celebration held in or on town-owned property and is attended by more than 25 people. The term "special event" shall *exclude* gatherings of ten or more people in a park for general recreational or sports activities.

"Sponsor" shall mean the person (as defined above) or persons who sign, or whose authorized representative(s) sign, an application for an event permit and who will be responsible under the permit, if issued, for ensuring that the event will be conducted in accordance with these regulations. Where a purported sponsor is not a legal entity, the sponsor shall be the individual(s) signing the permit application.

"Streets" shall mean public streets, sidewalks, walkways, alleys, lanes and highways in the Town.

"Structure" shall mean and include props and displays (such as, but not limited to: crates, crosses, theaters, cages, and statues); furniture and furnishings (such as desks, chairs, tables, bookcases, cabinets, platforms, podiums and lecterns); shelters (such as tents, boxes, inflatables, booths and other enclosures); wagons and carts; and all other similar types of property which might tend to harm Town land or street areas, including aesthetic interests.

B. Permit Requirements

- (1) Events may be held only pursuant to a permit issued by the Town Manager, with the following exceptions: events involving fewer than 25 persons where no space is requested to be reserved, or demonstrations which occur without prior planning or announcement for the purpose of an immediate and spontaneous response to a news-worthy occurrence, may take place without a permit if (i) it is otherwise a lawful assembly conducted in accordance with the regulations set forth in sections III E(1) through III E(3) and sections III E(6) through III E(15) herein, (ii) the group will not unreasonably interfere with other events scheduled or taking place concurrently, and (iii) the demonstration does not block streets or access to Town property; and (iv) the demonstration does not pose a threat to public safety. Without limitation of the foregoing, demonstrations taking place in response to a news-worthy occurrence more than 48 hours after such news-worthy occurrence will not qualify as spontaneous demonstrations, even without prior planning or announcement, and sponsors of events outside this window must apply for and receive a permit for an event expected to draw 25 or more persons.

- (2) Wherever these regulations specify that a particular use or activity may be conducted only pursuant to a permit, such permit shall be required in order for that use or activity to be lawful.

C. Permit Applications

- (1) Permit applications may be obtained from the Events Liaison. Inquiries regarding use of Rose Hill Park may also be directed to the Events Liaison.

- (2) Applications for permits shall be submitted by the event sponsor in writing, on a form provided by the Town, so as to be received by the Events Liaison at least (i) thirty (30) business days in advance of any event, if not requiring street closure, removal of parking, or provision of public safety personnel, or (ii) sixty (60) business days in advance of any event, if requiring street closure, removal of parking, or provision of public safety personnel. These periods may be reduced by the Town Manager with respect to demonstrations only if, upon consultation with the Police Chief, Fire Chief or other appropriate public safety officials, the size and nature of the proposed demonstration will not reasonably require commitment of Town resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period, and review of the permit by all appropriate personnel for the purposes contemplated by these ordinances is feasible within the necessary time period. In all cases, sponsors are encouraged to submit requests for permits as far in advance of any event as possible (but not to exceed 6 months). A permit may be denied if, taking into account the size and nature of the proposed event, the Town Manager does not have sufficient time to evaluate the proposed event's potential impact upon public safety, persons and property, and the interests of persons not participating in the event being able to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town parks for recreational purposes, and other Town lands for their intended purposes.

- a. Each application shall specify (i) the name, address and telephone number of a contact person for the sponsor, (ii) the nature of the event, (iii) the date when the event is to be conducted, (iv) the times when the event is to begin and end, and the approximate times when assembly for, and disbanding of, the event are to take place, (v) the location(s) of the event and any assembling or disbanding areas, as well as any related stands or other structures to be used in the event, (vi) the approximate number of persons, animals, and vehicles that will participate in the event, (vii) whether the sponsor will invite, publicize or advertise the event to groups and other persons that the sponsor does not directly represent, (viii) a description of the types of animals, the types of vehicles to be used, the number of bands and other musical units and sound trucks to be used, and the number, type, and size of banners, placards, and signs to be used, (ix) the number of persons who will be designated by the sponsor to monitor the event, and (x) any other information required by these regulations. The sponsor must disclose in an application whether the sponsor requests permission for a prohibited item to be used during a demonstration due to its expressive or symbolic quality relevant to the subject matter of the demonstration, including without limitation symbolic

weapons, open flames or other similar items. If the permit grant includes the right to carry or display a prohibited item, such item must be carried or displayed in strict accordance with the terms of the permit and must otherwise at all times conform to applicable law.

- b. Any permit granted will be based on the information provided in the application being, and remaining, complete, accurate and not lacking any material omissions regarding the nature of the event, any structures or items to be used during the event, or any activities to be conducted during an event, which information constitutes conditions and limits on the event. Sponsor will notify the Town as soon as practicable if any information in the application is no longer complete or accurate and provide a revised application containing the updated information. The Town will promptly review the revised application and notify the sponsor whether the permit will stand, or be revoked, modified or subject to additional conditions or limits. The sponsor will be responsible for notifying the anticipated attendees of any applicable conditions and limits placed on an event and any relevant subject matter of these regulations directly applicable to their conduct at an event, such as the list of prohibited items and the allotted time and location for an event and its initial staging and dispersal, if applicable.
- c. Each application must be accompanied by all required fees and deposits and signed by all sponsors responsible for the event unless, with respect to an application for a demonstration only, the sponsor claims in the application a bona fide financial hardship and the sponsor demonstrates to the Town Manager by reasonable evidence that the monetary obligations imposed by these regulations on the event would render the sponsor not reasonably able to conduct the demonstration, in which event the Town Manager shall waive, in whole or in part, compliance with the monetary obligations, including the obligations of indemnification, imposed by these ordinances to the extent necessary to enable the sponsor to conduct the demonstration.
- d. If applicable, the sponsor of (i) an event at which at least 500 people will or may be expected to attend, or (ii) a special event for which admission fees will be charged shall provide the Town with the location and number(s) of people who attended the past three events staged by the sponsor (or the sponsor's officers, directors or other principals). This will assist Town officials and public safety personnel in planning for any services which may be necessary in connection with the event, including by contacting counterparts in other jurisdictions for the purpose of assessing the appropriate levels of such services.
- e. Clarke County Building Department permits are required for tents that are greater than 900 square feet in size.

D. Permit Processing

- (1) Permit applications for events will be processed in order of receipt. The use of a particular area is allocated in order of receipt of completed applications (including any applicable fees or charges); however, the application of a

sponsor who applies for a hardship fee waiver or reduction will not be considered incomplete due to non-payment of any fees or charges unless and until a determination is made that any fees or charges are due and owing from the sponsor and the due date for the fee has passed without the payment having been made. Unless otherwise provided by these regulations, no applications shall be accepted more than six months prior to the proposed date of an event. This restriction shall not apply to community events which routinely repeat on an annual basis. Upon receipt of a permit application, the Events Liaison shall promptly deliver a copy of such application to the Town Manager, the Police Chief, the Director of the Department Public Works, the Town Planner and any other Town officials whom the Town Manager may, from time to time, designate as reasonably necessary to receive and review permit applications, or their respective designees. Such officials shall promptly deliver to the Town Manager their recommendations with respect to granting or denying the requested permit, or any modifications, conditions or limits upon which issuance of the permit should be based.

- (2) **Priority of Use.** Community events shall have priority of use of the particular street or Town land specified in section E (2.1) of these regulations, and those areas shall be deemed reserved unless released in writing by the sponsor. Other events may be allowed in areas which have been reserved for a community event, if they do not materially interfere with the community event and the community event sponsor consents.
- (3) **Permit Application Fees.** An application fee shall be paid by the sponsor of every proposed event for which a permit is required. See Appendix A for the amount of the fee. If a permit is denied or revoked, the application fee will not be refunded.
- (4) **Requests for Information.** Before or after permit issuance, the Town Manager or his or her designee may request from the sponsor such additional information with respect to a proposed event as reasonably deemed necessary for evaluating the proposed event's compliance with these regulations and the impact of the proposed event upon public safety, persons, and property, and the interests of persons not participating in the event being able to use Town streets, sidewalks, and other public ways to travel to their intended destinations, Town parks for recreational purposes, and other Town lands for their intended purposes unreasonably impaired. This may include a personal meeting with the Town Manager and Town of Berryville staff. The sponsor's failure to timely provide such additional information constitutes grounds for the denial of a permit request or the modification, conditioning or limiting of a permit.
- (5) **Grounds for Rejecting or Revoking a Permit.** A permit may be denied, or its grant may be conditioned or limited by the Town Manager, or an issued permit may be revoked upon the following grounds:
 - a. Receipt of Multiple Requests: a fully executed application for the same time and

place has been received at an earlier time, reserving an area for an event or activities which do not reasonably permit multiple events in the particular area.

- b. Impact on Public Safety: if it reasonably appears that the proposed event, due to its nature, location, anticipated number of attendees or other factors, will present a threat to public safety or health or would be unlawful (including, without limitation, where a permit or license required by the Health Department or the Virginia Department of Alcoholic Beverage Control has not been obtained).
- c. Incompatible Use: the proposed event is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; would be inconsistent or incompatible with the purpose(s) for which the area sought to be reserved is normally used, or with other uses of the area sought to be reserved.
- d. Failure to Meet Conditions: the application proposes activities contrary to one or more of the purposes, conditions or limits specified within these regulations.
- e. No Responsible Person: there is no person authorized to sign an application on behalf of the sponsor applying for a permit and/or there is no person willing or able, as demonstrated to the Town Manager by reasonable evidence, to accept responsibility for and perform the sponsor's obligations set forth in these regulations, including, without limitation, the sponsor's indemnification obligations.
- f. In the case of a proposed special event: the proposed special event cannot be accommodated within a reasonable allocation of Town funds and/or resources, considering the event's public appeal and the anticipated participation of the general public therein.
- g. Failure of the Event to be Consistent with the Application: The Town Manager reasonably determines at any time, following consultation with the Police Chief or other appropriate Town officials, that any material information set forth in the permit application is incorrect or misleading, or has become since the submission of the application incorrect or misleading and the permit must be revoked, modified, conditioned or limited consistent with these regulations.

- h. Prohibited Items: Prohibited items are not allowed at events and an event permit will be denied or revoked if at any time it appears that prohibited items will be used, or are being used, during an event, and the Town has not granted special permission in the permit covering such use. It will not be grounds for rejection of a permit that a sponsor wishes event attendees to carry or use a prohibited item in an expressive or symbolic way, including without limitation a symbolic weapon, open flame or other similar item, provided that all attendees must be licensed to carry such weapons if required by law and the use of such items must be otherwise lawful, and further provided that the event sponsor pays for any additional police, fire and emergency medical personnel required to maintain public safety in accordance with these regulations. If any prohibited item for which special permission has been received is held or used during the demonstration in an intimidating, threatening, dangerous or harmful manner, such use will be unlawful and the permit's allowance of such use shall be automatically revoked. The person responsible for the unlawful use of the item will be directed by law enforcement to leave the demonstration area, and any person refusing to do so shall be subject to arrest for trespassing.

Nothing in these regulations shall prohibit a disabled person from carrying, possessing or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a permitted event.

Nothing in these regulations shall prohibit certified law enforcement officers or other public safety officials acting in their official capacity from carrying or possessing materials, weapons and / or devices used in the performance of law enforcement duties.

- (6) **Modifying or Placing Conditions or Limits on Permit Grants.** A permit may be modified or its grant may be conditioned or limited by the Town Manager where necessary to meet the requirements of these regulations or to further their purposes. Such conditions and limits may include, for example, requiring the event to be relocated to an alternative venue if doing so is required to safely accommodate the number of anticipated attendees or type of event; provided, however, that with respect to demonstrations only, the Town Manager shall take into account whether the alternative venue is suitable for communicating the content of the demonstration. The Town reserves the right to limit the number of persons allowed at events based on the location or nature of the event, and to require that the sponsor provide a certain number of individuals, who may be volunteers within sponsor's organization, to act as crowd managers to assist with ensuring that the assembly is and remains lawful and in compliance with these regulations and liaising with Town officials prior to and during the event.

(7) Notice of Decision

- a. Applicants shall be notified of the Town's approval or denial of a permit for an event as soon as reasonably practicable after the date on which the application was received. The Town may also issue approval of a permit for an event conditioned upon the sponsor's accepting modifications, conditions or limits imposed on the event consistent with these regulations.
- b. Unless denied or modified within 10 business days following the submission of a completed permit application, or within thirty (30) business days if the event requires a street closure, removal of parking, or provision of public safety personnel, all requests for demonstration permits shall be deemed granted, subject to the conditions and limits set forth in the permit and these regulations, so long as the area proposed for the demonstration had not been reserved by another person prior to the date on which the permit would be deemed granted in accordance with this section.
- c. All denials of requests for or conditional approvals of, demonstration permits shall include a reasonably detailed description of the reason for the denials or the modifications, conditions or limits, and specific instructions for how an appeal of the denial or conditional approval can be submitted to the Town Manager.

(8) Permit revocation

- a. An issued permit for an event may be revoked by the Town Manager or designee upon a finding of a violation, or a reasonably anticipated violation, of any rule, ordinance, law, regulation and/or condition or limit of the permit, or a finding that a permit application was not complete or accurate or had a material omission of fact when granted, or a finding that the information in the permit application has become, or is reasonably likely to become, incomplete, inaccurate or to contain a material omission. Immediately upon such a revocation, the Town Manager or designee shall send a written notice to the sponsor at the sponsor's address in the permit application, specifying the reason for the revocation. Written notice requirements may also be satisfied by virtue of electronic transmissions via e-mail or fax.

- b. During the conduct of an event, a permit may be revoked by the ranking police officer, fire marshal or other public safety supervisory official in charge, and the event attendees dispersed, if the event is unlawful, prohibited items are being used, there exists an imminent likelihood of violence or other threat to public safety endangering persons or threatening to cause significant property damage, or if the Town, County or Commonwealth has declared either a state of emergency or an unlawful assembly covering the area in which such demonstration is being or will be held. Upon such revocation, the sponsor and the other sponsor attendants shall communicate the need to disperse the demonstration to the attendees.
- c. When a permit has been granted, or is deemed to have been granted pursuant to these regulations, the Town Manager may revoke, modify condition or limit the permit for any reason for which it could have been denied, modified, conditioned or limited originally.
- d. Except for permits revoked during demonstrations, all revocations of demonstration permits shall include a reasonably detailed description of the reason for the revocation and specific instructions for how an appeal of the revocation can be taken, and shall be served personally or by certified mail, with a copy sent by fax or e-mail at the sponsor's request.

(9) Appeals

- a. Except for permits revoked during demonstrations, an appeal of the denial, conditional approval or revocation of a demonstration permit must be made to the Town Manager in writing, and shall include a statement of the basis for the objection to the denial, conditional approval or revocation.
- b. The Town Manager shall make a decision on appeal expeditiously and, if practicable, at least three (3) business days prior to the date the demonstration is planned to commence, and shall explain in writing the reasons for the decision.

E. Permit Conditions and Limits. All events are subject to the following conditions and limits:

(1) Excluded Areas and Prohibited Items

- a. No events that charge an admission fee or offer goods or services will be permitted in Rose Hill Park.
- b. Prohibited items are excluded from all events.

(2) Street Closings

- a. No street may be closed for any event, unless done so pursuant to a street closure permit applied for by the event sponsor and issued by the Town Manager pursuant to sec. 10-7 of the Town Code; or for streets within Town maintained by VDOT, a VDOT land use permit. No such permit shall be granted unless the Town Manager or Chief of Police determines that such closure is reasonably required due to the location of the event and:
 - 1. Such closing is necessary because the event will impede or pose a reasonable risk of harm to traffic and/or pedestrian travel, or, if not strictly necessary, such a closing would not be unduly detrimental to public safety and convenience; and,
 - 2. If the street in question is an extension of the state highway system, adequate provision shall be made to detour through traffic during the event (C.Ref. Temporary Street Closings, Generally; State Code 15.2-2013), and
 - 3. The sponsor permitted to use public right(s)-of-way being closed will furnish a public liability and property damage insurance contract, as required by Va. Code §15.2-2013 and §E(4) of these regulations.
- b. No street may be closed for an event except on a temporary basis, not to exceed 10 hours in duration.
- c. Even if not requested by a sponsor, if the circumstances of a proposed event are such that a street closing is necessitated because the event will likely impede or pose a threat to vehicular or pedestrian travel then the Town will require a permit and a street closing in connection with the event, along with all application fees applicable thereto, and may require that the event be held at an alternate site if a suitable alternate site is available where the event is not likely to impede or pose a threat to vehicular or pedestrian travel.

- d. Upon approval of a street closing in connection with an event, the sponsor shall be issued a street closure permit by the Town Manager. This permit shall be displayed in a prominent place during the event.
 - e. During the conduct of an event, the sponsor of that event shall comply immediately with the lawful request of any police officer, firefighter, rescue service person, or town employee, made for public safety or other emergency reasons, to move any structure or persons from a street which has been closed in connection with that event.
 - f. Notwithstanding any of these provisions, the Town Manager may close any street for a neighborhood-based gathering when (i) 1 block or less is to be closed, (ii) there is an alternative for all traffic, (iii) reasonable notice of the closure is given by posting signs at either end of the block, and (iv) the Town Manager believes that there are no safety issues. In these cases, no permit is required and applicants shall be referred to the Town Clerk for street closure permits.
- (3) **No Impediments to Public Access.** During any street closure, all Town ordinances and State statutes limiting the use or obstruction of fire lanes, access to Fire Department fire suppression system connections and fire hydrants, emergency routes, and pedestrian walkways must be observed at all times. No person(s) or group(s) participating in an event shall block any entrances to or exits from buildings, nor shall such person(s) or group(s) interfere with the use of buildings, parks or facilities by non-participating persons for their ordinary purposes, whether by impeding access, impeding egress using fire exits and routes, creating unreasonable noise or otherwise.
- (4) **Indemnification and Insurance.**
- a. Sponsors of events for which a permit is required shall be required to indemnify and hold harmless the Town, its officials, employees and agents from any personal injury, death and damages to property, and any other loss, cost and/or damage occurring as a result of the actions or inactions of the event's sponsor, or the sponsor's failure to comply with these regulations.
 - b. The sponsor(s) will accept the reserved area as-is, and the Town does not warrant that any public area(s) are suitable for the activities to be conducted as part of the event. The event sponsor(s) shall be solely responsible for any damages or injuries resulting to any person or property arising out of the sponsor(s)' use of Town property for the event, and the sponsor(s)' failure to obtain any required public liability

insurance for the event is at the sponsor(s)' sole risk. The Town expressly reserves all sovereign and governmental immunity to which it, and its officers, officials and employees may be entitled to under the laws of the Commonwealth of Virginia.

- c. Insurance or Other Liability Contract. The sponsor of an event shall furnish a general liability and property damage insurance contract insuring the Sponsor's liability for personal injury and death and damages to property resulting from its use of public property. If alcohol is to be served or sold in connection with the event, then the required insurance shall cover liability specifically in connection with that activity. The required general liability and property damage insurance shall be provided in an amount not less than \$1,000,000, and the insurance policy shall name the Town (including its officers, officials, employees and agents) as an additional insured party to the insurance contract. Failure to provide required insurance, and reasonable documentation of the insurance, will be grounds for denial and/or revocation of a permit.
 - 1. Prior to commencement of the event, the Sponsor must provide the Town with an insurance certificate that verifies the insurance coverage required by these regulations.
 - 2. This insurance requirement may be waived, in whole or in part, by the Town Manager for events that do not (i) pose a high level of liability risk to the Town or a material risk to public safety, and (ii) do not involve any inherently dangerous activity. A written request to waive or modify any insurance requirement must be made by the sponsor at the time a permit application is submitted. An approval or denial of the request will be made in writing to the event sponsor by the Town Manager.
 - d. The sponsor of an event for, or in connection with, which any type of royalty(ies) are required to be paid must agree to pay all such royalties (including, without limitation, any which may be due to ASCAP and BMI) and to indemnify and hold the Town harmless from and against any and all royalty payments sought from the Town.
- (5) **Limited Duration.** No event shall be authorized for a duration in excess of two (2) days and no street closing shall be authorized for a duration in excess of eight (8) hours. Provided, however, that the stated period may be extended, upon request no later than 24 hours prior to the expiration of the then-authorized duration for demonstration only, up to one (1) day unless another application has requested use of the particular area and said application precludes double occupancy.

(6) **Time of Day Restrictions.** No event shall be permitted in any Town park during hours that the park is otherwise closed to the public.

(7) **Sound Amplification.**

a. The Town Manager may approve a request in the permit application for the use of sound amplification equipment in connection with the permitted event in accordance with exemptions to noise ordinance violations enumerated in Chapter 11 of the Code of the Town of Berryville. The Town Manager may reasonably limit the sound amplification equipment so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area of an event and/or so that it will not unreasonably interfere with the conduct of another event, or an outdoor business enterprise in the vicinity or area.

b. No amplified sound shall be generated by or in connection with an event between the hours of 10:00 pm and 09:00 am.

(8) **Sales or Distribution of Merchandise/Information**

a. When the sale or display of merchandise, or the distribution or display of educational, informational or other materials (including the distribution of non-commercial printed materials) is to be done in or upon Town streets or parks with the aid of a table, stand or structure, no such table, stand or structure shall exceed 4 ft. x 4 ft. or 2 ft. x 8 ft.

b. Whether or not a permit is required, the sale, display or distribution of merchandise or other materials, and the solicitation of contributions or donations, is prohibited in the following areas: (1) any location that would impede access to the entrance of any adjacent building or driveway; (2) any location such that the sale or distribution activity would occupy more than half the available sidewalk width, or four feet of sidewalk width, whichever is less; (3) within 10 feet of a fire hydrant, a public telephone, a fire escape, the driveway of a fire or police station, or a loading zone; (4) within the portion of any street intended for the use of motor vehicles which has not been temporarily closed for or in connection with the demonstration or special event; (5) if done with the aid of a table, stand or structure: within any area reserved by a permit issued for an event, if the sponsor of the event has not consented to the presence of the table, stand or structure; (6) upon the lands or within the structures of Rose Hill Park.

- c. Persons or organizations engaged in the sale, display or distribution of written or printed materials, and/or the solicitation of donations or contributions, whether or not a permit is required, shall not obstruct or impede pedestrians or vehicles, harass park visitors or the attendees of any event with physical contact, misrepresent the purposes or affiliations of those engaged in the activity, or misrepresent whether written or printed materials being distributed are available without cost or donation.
 - d. No sales or distribution activity may be conducted after 10:00 p.m., except that such activity shall be allowed past 10:00 p.m. in connection with a community event.
- (9) **Food and Beverage Sales.** The sale or distribution of food and/or beverages as part of an event is allowed pursuant to a permit.
- a. All sales and/or other provision of food and/or beverages must be done in accordance with all licenses, permits and approvals (including, without limitation, those required by the Health Department, the Department of Alcoholic Beverage Control and the Town Treasurer) required by law. If the sponsor cannot provide documentation to the Town that all required licenses or permits have been obtained, that shall be grounds for denial or revocation of the permit for the event.
 - b. The sponsor shall provide the Town with a diagram identifying the size and location of any tables, stands, food trucks or mobile food units or other structures to be used for or in connection with the sale of food and beverages. There shall be no sales or distribution of food or beverages in any of the following locations: (1) any location that would impede access to the entrance of a building or driveway; (2) any location such that the sale or distribution activity would occupy more than half the available sidewalk width, or four feet of sidewalk width, whichever is less; (3) within 10 feet of a fire hydrant, a public telephone, a fire escape, the driveway of a fire or police station, or a loading zone (unless the loading zone is located in a street temporarily closed in connection with the event); (4) within the portion of any street intended for the use of motor vehicles which has not been temporarily closed for or in connection with the event.
 - c. Any person selling or otherwise providing food and/or beverages during an event or community event, within an area reserved pursuant to the permit authorizing that event or community event, must do so with the consent of the sponsor and must have all licenses, permits and approvals required by law. The sponsor controls vendors only within the area designated for the event or community event.

- d. There shall be no sale or other provision of food or beverages at any event after 10:00 p.m.
 - e. In accordance with the Deed of Gift for the lands of Rose Hill Park, no food and/or beverages may be offered for sale, however, food and/or beverages excluding those containing alcohol and in accordance with all other regulations set forth in this section may be provided free of charge by the sponsor to event attendees.
- (10) **Signs and Banners.** The use of signs and banners in or upon the Town's streets is prohibited, for or in connection with any event, except:
- a. Signs hand-carried by an individual are allowed up to 3 feet by 5 feet in size. If during an event signs, due to their size or collective use by persons, interfere with the public safety personnel's ability to conduct their duties, such signs can be restricted or banned from the event.
 - b. Signs are allowed on or within any table, stand or other structure at which food, beverages or merchandise is being sold, or at which non-commercial printed material is being distributed, so long as that sign is no larger than two (2) square feet in area and contains no advertising or advertisement.
 - c. Signs that are attached permanently, or semi-permanently, to stands or vehicles being used for or in connection with authorized recreational activities or events are allowed.
- (11) **Advertising.** Advertising/Advertisement (see definitions set forth in section IIIA) by the use of banners, billboards, signs, markers, audio devices, or any other means whatsoever is prohibited in or upon Town streets, sidewalks and parks for or in connection with any event. (C.Ref. State Code 15.2-2013).
- (12) **Temporary Structures.** The erection, placement or use of structures of any kind is prohibited, except:
- a. In connection with permitted events, temporary structures may be permitted provided that notice to the Town Manager is provided contemporaneously with the permit application. Examples of temporary structures that may be permitted are as follows: structures erected for the purpose of symbolizing a message, first aid facilities, lost child alerts, shelter for electrical or other sensitive equipment.
 - b. Structures that are being hand-carried are allowed as part of a demonstration.
 - c. Structures that are permitted pursuant to other sections of these regulations are allowed.

- d. When allowed: (1) structures are not permitted on sidewalk(s) unless they meet the size criteria described in section (8)a of these regulations; (2) structures must be erected in such a manner so as not to unreasonably harm park or other public area resources and the sponsor of the event must agree to remove such structures as soon as practicable after the conclusion of the permitted demonstration or special event; (3) structures must be capable of being removed upon 10 hours' notice and without permanent damage to Town lands (with the sponsor being responsible for any non-*de minimis* costs of remedying any damage arising out of such removal), and shall be secured in such a manner so as not to interfere unreasonably with use of any park area by other permittees authorized under this section; (4) structures shall not be attached to or fashioned in any way that would damage trees or other existing structures on public lands; and (5) the sponsor must comply with all other regulations concerning temporary structures and required permits as established by the Berryville Planning Department and Clarke County Building Department.
- e. The Town Manager may impose other restrictions upon the use of temporary structures in the interest of protecting park or other public areas and/or traffic and public safety considerations.

(13) **Sanitation and Garbage.**

- a. Garbage, trash, rubbish, litter, or any other waste material or waste liquid generated on public property during an event shall be removed from the area by the sponsor of the event, or deposited in receptacles provided for that purpose. The improper disposal of such waste is prohibited.
- b. The sponsor of every event shall be required to pay a fee for cleanup costs, in the amount specified within Appendix A, to cover anticipated costs to the Town of cleaning up the site for restoring the area in question to its pre-event condition, and disposing of trash and refuse resulting from the event. This fee must be paid in advance. If actual cleanup costs incurred by the Town exceed the amount of the Cleanup Deposit collected in advance by the Town, the sponsor will be billed by the Town for the excess.
- c. A sponsor of any event must arrange for such public restroom facilities as may be required by the Health Department. The Town shall bear no responsibility for the cost of providing such facilities, and it shall be the sponsor's obligation to provide documentation to the Town Manager that all restroom facilities required by the Health Department have been arranged. Failure to provide documentation of Health Department approvals prior to an event shall be grounds for denial or revocation of a permit.

(14) **Electricity.**

Sponsors in community events may have the use of Town electrical outlets, as needed. Sponsors may be required to pay an Electricity Fee, in advance, at the discretion of the Town Manager and based upon anticipated electricity needs for the event. Attendees in events may not have the use of Town electrical outlets.

(15) **Fireworks Displays; Open Flame.**

Persons desiring to conduct a pyrotechnic display of fireworks on streets or public lands must obtain approval from the State Fire Marshall's Office. Persons desiring to use open burning or open flame on streets or public lands must obtain a permit from the Town as required by sec. 6-1 (Open burning; generally) of the Town Code. Fires upon the lands of Rose Hill Park are prohibited with the exception of fires within grills located in the park designed for the preparation of foods or in conjunction with special ceremonies approved by the Town Manager. (Berryville Town Code sec. 13-36(i) The Chief of Police, in consultation with the Clarke County Director of Fire and EMS, may withhold approval of such permit to the extent its issuance would result in the violation of a Town ordinance or it might jeopardize public health, safety or welfare.

(16) **Public Safety Personnel.**

- a. No permit will be granted for an event unless adequate security will, in the determination of the Town Manager upon consultation with the Police Chief, Clarke County Director of Fire and EMS, or other appropriate public safety official, be available for the welfare and safety of those attending the event and of the general public.

1. General Requirements.

- (A) Minimum Required Security Officers:

- (1) Open Events (Admission not restricted by tickets, fees, or otherwise) Where Alcohol is Served or Offered for Sale. Baseline: the sponsor must pay the cost of one police officer to staff the event, regardless of attendance. Where attendance exceeds, or is expected to exceed, 100 people, the sponsor must, in addition, pay the cost of one police officer for every 100 people (or portion thereof) attending or expected to attend.
 - (2) Closed Events (Admission restricted by tickets, fees or otherwise) Where Alcohol is Served or Offered for Sale. Baseline: the sponsor must pay the cost of two police officers to staff the event,

regardless of attendance. Where attendance exceeds, or is expected to exceed, 350 people (or portion thereof), the sponsor must, in addition, pay the cost of one police officer for every 350 people.

- (3) Events at Which No Alcohol Will Be Served or Offered for Sale (whether open or closed to the general public). Where attendance exceeds, or is expected to exceed, 1000 people, the sponsor must pay the cost of one police officer to staff the event, regardless of attendance. The sponsor must, in addition, pay the cost of one police officer for every 1000 people (or portion thereof) attending or expected to attend.
- (4) Marathons/Races/Walks. Baseline: The sponsor must pay the cost of one police officer per hour of the race. The sponsor may be required to pay for additional police officers to staff the event, if the Police Chief (or his designee) determines additional police officers to be necessary due to the geographic location of the proposed event, the time of day the event is planned to occur, or other factors related to the safety of attendees or the general public and the efficient flow of traffic and pedestrian travel along the planned route of the event.
- (5) Additionally, the sponsor shall be required to pay the cost of one traffic/parking control officer for every 1,000 people (or portion thereof) attending the event.
- (6) Upon a determination by the Chief of Police, or his designee, due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, that one or more police vehicles are necessary to assure safe and efficient police coverage of an event, the sponsor must pay a vehicle fee, as specified in Appendix A, for each required vehicle. A sponsor may request, in advance of an event, an estimate of the number of vehicles that may be required; however, if circumstances of the event require the

assignment of additional vehicles, the sponsor will be billed, and must pay, the required fee for each vehicle actually deployed.

- (7) Upon a determination by the Clarke County Director of Fire and EMS, or his designee, due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, that one or more fire vehicles and / or emergency medical services vehicles are necessary to assure safe and efficient fire or emergency coverage of an event, the sponsor must pay a vehicle fee, as specified in Appendix A, for each required vehicle. A sponsor may request, in advance of an event, an estimate of the number of vehicles that may be required; however, if circumstances of the event require the assignment of additional vehicles, the sponsor will be billed, and must pay, the required fee for each vehicle actually deployed for the event.
 - (8) Upon a determination by the Clarke County Director of Fire and EMS, or his designee, that due to public safety factors such as the size of the crowd, the location or nature of the event, or the anticipated use of structures, sound equipment or items that could during an event become prohibited items, one or more firefighters, fire officers or emergency medical services providers are necessary to assure safe and efficient fire and emergency coverage of an event, the Sponsor must pay the cost of those firefighters, fire officers or emergency medical services providers. A Sponsor may request, in advance of an event, an estimate of the number of firefighters/officers that may be required; however, if circumstances of the event require the assignment of additional firefighters/officers, the Sponsor will be billed, and must pay, the required fee for each firefighter/officer actually deployed.
- (B) Fees and Charges: The fee(s) and charges associated with the above-stated police officer, career fire fighter and emergency vehicle requirements are set forth

within Appendix A. The costs charged to sponsors for required police, fire and emergency personnel coverage will be the established hourly wage for overtime work for the particular officer(s) willing and available to cover the event. In the event that the Town's actual cost of police, fire, and emergency personnel coverage necessitated if the event exceeds the amount(s) collected in advance as deposits, the sponsor will be billed by the hour for each Town officer, fire and emergency personnel utilized to patrol or at the location available to assist the event as needed.

- (C) Where Admission Fees Will be Charged: The sponsor of an event for which admission fees will be charged shall provide at least two secure access gates, at locations approved by the Town's Police Department. For events to which tickers are sold in advance, the sponsor shall, two days prior to the event, and at any other time reasonably requested by the Town, advise the Town as to how many tickets have been sold as of the day of the report. This will assist the Town in planning for any additional police or other services which may be necessary in connection with the event.

(17) Facilities Charges.

The sponsor of an event to which an admission fee will be charged (by ticket sales or otherwise) shall pay the Town a rental fee in the amount specified in Appendix A. These types of events tend to have a greater impact upon the community in general and upon the specific area reserved for the event.

(18) Carnivals and Circuses

- a. No circus, carnival, or other similar show shall publish or post in any way within the Town, at any time within 15 days prior to the holding of such event within the Town, any advertising of the exhibition of the circus, carnival or other similar show. (C.Ref. Va. Code 58.1-3728).
- b. Any circus, carnival or other, similar show shall obtain the license required by section 9-34 of the Town Code before commencing any activity.
- c. The sponsor of the circus, carnival, etc. shall pay a fee, as specified on Exhibit A hereto, for the inspection of any amusement rides to be offered as part of the event, and shall pay the tent erection fee(s) required by regulations of the Clarke County Building Department.

(19) **Other Conditions and Limits.**

- a. A permit may contain additional conditions and limits, consistent with these regulations, as may be warranted by the nature of a particular event, in the interest of protecting park or other town resources, the use of nearby areas by other persons, and other legitimate property and/or public safety concerns.
- b. Sponsors who request the Town to provide special equipment or facilities (e.g., barricades and cones for street closings, tables, chairs, public address systems, fencing, etc.) will be charged a reasonable fee and rental therefore. The appropriate fees shall be identified by the Town Manager to the sponsor following the sponsor's request for such items.
- c. A permit for a demonstration may be subject only to reasonable time, place and manner conditions or limits that: (i) are narrowly tailored to serve the Town's significant interest, and (ii) leave open ample alternative channels for communication of the content of the demonstration. No permit denials, revocations, or modifications, and no time, place, or manner conditions or limits imposed on a demonstration, may be based on the content of the beliefs expressed or anticipated to be expressed during the demonstration, or on factors such as the attire or appearance of persons participating or expected to participate in a demonstration (except to the extent involving unlawful or prohibited items), nor may such conditions or limits favor special events over demonstrations. With respect to demonstrations, these regulations shall be applied, and the Town Manager or his or her designee shall make permitting decisions in compliance with and to further the intent of this section (19) c. The Town Manager may impose such conditions or limits on a demonstration (i) during the permitting approval process, or (ii) during the occurrence of a permitted demonstration if necessary: (A) to ensure that the demonstration meets the stated terms and purposes of these regulations (B) due to the occurrence of circumstances unrelated to the demonstration that were not anticipated at the time of the approval of the permit and that were not caused by demonstration attendees, counter-protestors or Town officials, or (C) due to a determination by the Police Chief, the Clarke County Director of Fire and EMS or other appropriate public safety official during the demonstration that there exists an imminent likelihood of violence or other threat to public safety endangering persons or threatening to cause significant property damage.

- (20) **Information Collection.** The information collected under these regulations will be used to provide notification to the Town Police, Town Department of Public Works, and local fire and rescue officials of the plans of sponsors of events in order to assist in the provision of security and logistical support.
- (21) **Community Events.** Except as expressly stated, community events shall be conducted in accordance with all the conditions and limits on events as specified in section E above. Except as specified below, the sponsor of a community event shall pay the fees and deposits specified in these regulations and required by the Town Code. Community events include the following:
- a. **Farmers' Market**

The Farmer's Market is held on the Rixey-Moore parking lot on Saturday mornings from April through October. The market is governed by a Board and has its own set of regulations which have been reviewed by Town Council.
 - b. **Music in the Park**
 - c. **Homecoming Parade**
 - d. **Christmas Parade**
 - e. **Summer Concert Series**
 - f. **National Night Out**
 - g. **Memorial Day Observance**
 - h. **Veterans Day Observance**

APPENDIX A

1. Event Permit Application Fee (pay upon application) \$25.00 (non-refundable)
2. Street Closure Fee (pay upon application) \$100.00 (non-refundable)
3. Gazebo Security Deposit (pay upon application) \$50.00
4. Public Space Rent (events to which entry is limited by tickets or admission fees)
 - 0 – 1,000 attendees \$50.00
 - 1,001 – 1,999 attendees \$100.00
 - 2,000 – 2,999 attendees \$150.00
 - 3,000 attendees and up \$500.00

\$50.00 due with application. Remainder of Public Space Rent to be submitted to the Town within five (5) calendar days following conclusion of the event, along with documentation of total ticket sales or attendance count. The Town may monitor attendance to verify attendance numbers.

5. Electricity Fee \$50.00 Advance deposit

Advance deposit covers first four (4) hours of use. Sponsor will be billed \$10.00 per hour for each additional hour of actual usage.

6. "No Parking" Signs \$1.00 per sign – Billed
7. Building Permit Fee (Tent) Contact Clarke County Building Department
8. Amusement Ride Inspections Contact Clarke County Building Department
9. Public Works Fee \$100.00 Advance deposit

Advance deposit covers first two (2) hours of labor associated with event. Sponsors will be billed \$50.00 per hour for each additional hour of labor that is provided.

10. Public Safety Personnel

\$50.00 per required Officer, Advance deposit
(Refundable up to 24 hours prior to Event)

- Deposit due with application
- For ticketed events, where tickets are sold in advance an additional \$50.00 deposit required per required officer/technician, as calculated based on tickets sold as of 48 hours prior to the Event. The additional deposit is due 24 hours in advance of the Event.
- Sponsor will be billed per hour for each officer/technician actually utilized (based on police / fire / EMS estimates of actual attendance and/or circumstances of the event and based on the regular hourly rates or salaries for the police/fire/EMS personnel utilized).
- *Hourly Rates:* The Sponsor will be billed the higher of: (i) \$30.00 per hour, or (ii) the established hourly wage for overtime work, or (iii) the special event flat rate for FSLA exempt employees, as may apply for each of the particular officer(s)/technician(s) willing and available to cover the event, for each officer/technician actually utilized, plus an administrative fee in the amount of ten percent (10%) of the total billed amount.

11. Public Safety Vehicle Fee

\$25.00 per required vehicle – Billed

12. Cleanup Fee

- Closed Event (Admission limited by tickets or fees) \$300.00 Advance Deposit
Refundable if Event cancelled in advance
- Other Events \$100.00 Advance Deposit
Refundable if Event cancelled in advance

APPENDIX B

Special Events Forms

- I. Special Event Permit Application
- II. Town of Berryville Land Use Permit
- III. Rules and Regulations Governing the Use of Rose Hill Park



Special Event Permit Application

FOR OFFICIAL USE ONLY

Organizational Status

☐ Non-Profit ☐ Commercial ☐ Independent

Attachment Verification

☐ Maps ☐ Insurance ☐ ABC Permit

☐ Tent Permit ☐ VDH Permit

☐ Road Closure Permits

Activity type (Please select all that apply):

☐ Block Party

☐ Demonstration

☐ Other

☐ Parade

☐ Festival

(please describe)

☐ Film Production

☐ Race/Walk

☐ Carnival

☐ Fair

Event Location Requested:

☐ Rose Hill Park

☐ Rixey-Moore Parking Lot

☐ Hogan's Alley

☐ Other _____

Group Requesting Event _____

Date of Event _____

Rain Date, if any _____

Time of Event _____

Date Application Received

Organizer's contact Information (Representative must be present at the event with approved permit available for inspection)

Primary Name _____ Cell Phone _____

Address _____ Work Phone _____

City _____ State/Zip _____

Email _____ Home Phone _____

Secondary Name _____ Cell Phone _____

Address _____ Work Phone _____

City _____ State/Zip _____

Email _____ Home Phone _____

Description of the Event (Please attach additional sheet if more space is needed)

Will the activity require the blocking of any surrounding public streets, driveways or entrances?

Yes _____ No _____ If yes, please identify: _____

Event Hours

Set-Up Time _____ Hours of Event _____ Clean-Up Time _____

Anticipated Attendance

Participants _____ Spectators _____ Other _____

Name of Insurance Company: _____

(Certificate of Insurance and additional insured endorsement providing \$1 million in general liability insurance required. May be increased or waived as deemed necessary as determined by the Town Manager or their designee.) Please note that animals on site require additional insurance.

Will sound amplification devices be used? Yes _____ No _____

If Yes, length of time: _____

Will the event require use of any parking lots for staging areas? Yes _____ No _____

If Yes, please identify: _____

Will alcohol be served? Yes _____ No _____

If Yes, all state laws and local ordinances must be followed. The organizer must obtain a Virginia ABC permit (<http://www.abc.virginia.gov/>) and is responsible for all required permits.

Will food be served? Yes _____ No _____

If Yes, the organizer may be required to obtain a permit from the Virginia Department of Health (540/955-1033) and is responsible for all requisite permits.

Will any fees be charged in association with the event, admission, etc.?

Yes _____ No _____ If yes, amount to be charged _____

If Yes and the special event is to occur in Rose Hill Park, please note that a Fundraising Permit is required upon application for valid and duly-constituted non-profit organizations for the purpose of approved charitable, educational, cultural, and/or community-oriented projects and activities. Commercial activity is prohibited.

Will you have security on site? Yes _____ No _____

If Yes, please identify who will be on site _____

Will weapons or firearms be present? Yes _____ No _____

If Yes, please provide detail of activity _____

Will there be a parade? Yes _____ No _____ (If yes, please complete the following section)

VDOT and/or Town of Berryville Land Use Permit and fee are required.

Please identify parade route

Will there be vehicles in the parade? Yes _____ No _____ Number of vehicles anticipated _____

What time will staging occur? _____

Where will staging occur? _____

Will there be animals in the parade? Yes _____ No _____

If Yes, what type and how many? _____

Will you need assistance from Fire & Rescue? Yes _____ No _____

If Yes, please contact John H. Enders Fire & Rescue at 540/955-1110 at least ten (10) days prior to the event.

Will you be using any of the following? (Mark all that apply)

____ Tents

____ Tables

____ Portable Toilets

____ Live Radio

____ Signs

____ Electricity

____ Banners

____ Animals

Please note: Architectural Review Board review and approval and Zoning Permits may be required for certain banners, signs and temporary structures.

Please supply a sketch of how the requested venue will be organized for the event below, or attach a map with this application.

Hold Harmless Agreement

_____ (Legal name of business/organizer, exactly as it appear on Insurance Endorsement), shall defend and hold harmless, the Town, its officers, employees, agents, and representatives thereof, harmless from all suits, actions, claims of any kind, including attorney's fees, brought on account of any personal injuries, damages, or violation of rights sustained by any person or property in consequence of any neglect on behalf of _____ (Legal name of business/organizer) while their personal property is situated on Town Property.

_____ (Legal name of business/organizer) shall further hold the Town harmless for any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree.

Legal Name of Business/Organizer _____
(As it appears above)

By (signature): _____

Name (printed): _____

Title: _____

Address: _____

Date: _____

+++++

For Office Use Only

Permit Approved _____ Denied _____

By: _____

Date: _____

Permit # _____

Special Event Permit # _____

Permission is hereby granted to _____
(Name of Organization/ Organizer)

for the use of the facilities identified in the attached application on _____
(Date)

from _____ to _____
(Time)

This permit is issued with the understanding that _____
(Name of Organizer)

shall accept responsibility for adherence to the Town of Berryville Special Events and Demonstrations Regulations, Ordinances of the Town of Berryville (Chapter 20- Parades and Demonstrations), and Ordinances of the Town of Berryville (§ 13-36 Regulation of Use and Conduct in Rose Hill Park) as well as to any special conditions which may be attached hereto.

Date _____ Signed _____
Town Manager

Special Fundraising Permit

Permission is further granted to the above-named Organization for a fundraising event pursuant to the approved application for same dated _____.

Date _____ Signed _____
Town Manager



LAND USE PERMIT LUP-A Land Use Permit Application

APPLICATION is hereby made for permit as shown on the accompanying plan or sketch and as described below. Said activity(s) will be done under and in accordance with the rules and regulations of the Council of the Town of Berryville, in so far as said rules are applicable thereto and any agreement between the parties herein before referred to. Where applicable agreements may be attached and made a part of the permit assembly including any cost responsibilities covering work under permit. Applicant agrees to maintain work in a manner as approved upon its completion. Applicant also hereby agrees and is bound and held responsible to the owner for any and all damages to any other installations already in place as a result of work covered by resulting permit. Applicants to whom permits are issued shall at all times indemnify and save harmless the Town of Berryville Council members, the Town and all Town employees, agents, and offices, from responsibility, damage, or liability arising from the exercise of the privileges granted in such permit to the extent allowed by law. In consideration of the issuance of a permit the applicant agrees to waive for itself, successors in interest or assigns any entitlements it may otherwise have or have hereafter under the Uniform Relocation and Assistant Act of 1972 as amended in event the Town or its successor, chooses to exercise its acknowledged right to demand or cause the removal of any or all fixtures, personality of whatever kind or description that may hereafter be located, should this application be approved.

Type or print clearly

Applicant Driver's license or Tax ID No. _____

Owner Name _____

Address _____

City _____ State _____ Zip Code _____

Agent Driver's license or Tax ID No. _____

Agent Name _____

Address _____

City _____ State _____ Zip Code _____

Contact Name _____

E-mail Address _____

Telephone Number (____) _____ - _____

Emergency Telephone Number (____) _____ - _____

Fax Number (____) _____ - _____

Contact Name _____

E-mail Address _____

Telephone Number (____) _____ - _____

Emergency Telephone Number (____) _____ - _____

Fax Number (____) _____ - _____

Permit Term Requested _____ Fees Enclosed \$ _____ Check Number _____

Money Order _____ Other _____ Estimated cost of work to be performed on Town of Berryville Right of Way \$ _____

Surety Information:

Surety Posted by: Owner ☐ Agent ☐ Surety Refund to: Owner ☐ Agent ☐ Surety Waived ☐

Amount of Surety \$ _____ Obligation Amount \$ _____ Check # _____

Surety Company Name _____ Bond # _____

☐ LUP-CS CASH SURETY AFFIDAVIT PROVIDED FOR CASH SURETY

Applicant has provided proof of the following requirements in accordance as defined in §2.2-1151.1 of the Code of Virginia

- (1) The utility company has registered as an operator with the appropriate notification center.
- (2) Attached is a notarized affidavit, stating that the utility owner has notified the commercial and residential developer, owner of commercial or multifamily real estate, or local government entities with a property interest in any parcel of land located adjacent to the property over which the land use is being requested, that application for the permit has been made.

Request permission to perform the following activity(s): _____

_____ as per attached plans.

Location: [☐] Town of _____ Route No. _____ Street Name _____

Latitude _____ Longitude _____ Tax Map Number _____ Applicant Job No. _____

Between Route No. _____ Street Name _____ and Route No. _____ Street Name _____

[☐] IF APPLICABLE, I AGREE TO PAY THE FULL SALARY AND EXPENSES OF A TOWN ASSIGNED INSPECTOR IN CONJUNCTION WITH ACTIVITIES AUTHORIZED UNDER THE AUSPICES OF A TOWN OF BERRYVILLE LAND USE PERMIT

Signature of Applicant: _____ Title _____ Date _____

Signature of Agent: _____ Title _____ Date _____

All applicable items on this form must be completed to avoid delay in processing the issuance of a Town of Berryville Land Use Permit.
Prepayment required with remittance payable to Town of Berryville.

TOWN OF BERRYVILLE USE ONLY

Receipt is hereby acknowledged for: CHECK No. _____ MONEY ORDER No. _____

In the Amount of \$ _____ for PERMIT FEE \$ _____ CASH SURETY \$ _____

Authorized Town Signature: _____ Date: _____



PLEASE READ CAREFULLY

RULES AND REGULATIONS GOVERNING THE USE OF ROSE HILL PARK

NOTICE: THE TOWN OF BERRYVILLE IS NOT RESPONSIBLE FOR ACCIDENTS, INJURY, OR LOSS OR DAMAGE TO PERSONAL PROPERTY.

1. All applications for permission to use Rose Hill Park facilities for a special event shall follow procedures outlined in the Regulations for Special Events and Demonstrations.
2. It shall be a condition of all special event permits issued for use of the park and its facilities that no person, whether or not a member of the sponsoring group or a participant in the special event, can be denied access or free passage to, from, or within all or any portion of Rose Hill Park or any facilities therein. Rose Hill Park shall at all times remain a public park with right of free passage to all members of the public.
3. No individual, group or organization will be permitted to use the park for profit or gain in the absence of a special fund-raising permit obtained from the Town pursuant to paragraph four (4) herein. All regular park permits shall be conditioned on an understanding that the special event is not a benefit affair, that no admission is to be charged, and that no tickets will be sold. There will be no gambling or games of chance except as may be permitted by a special fund-raising permit issued pursuant to paragraph four (4) herein.
4. The Town may issue a special fund-raising permit upon application, on forms provided by the Town, by valid and duly-constituted non-profit organizations for the purpose of approved charitable, educational, cultural, religious and/or community-oriented projects and activities. All other rules and regulations governing the use of Rose Hill Park, as set forth herein, shall apply to such fund-raising events approved by special permit.
5. No alcoholic beverages or illegal controlled substances are allowed on the premises at any time.
6. Users of the Rose Hill Park gazebo may not deface the structure in any way. No driving of nails, thumb tacks, or fastening to light fixtures will be permitted. Plans for any decorating must be submitted for approval with special event permit applications.
7. The Town of Berryville furnishes only such lighting and electrical service which is in place. Any additional services and equipment needed for a special event must be furnished by the user. When special or additional lighting or other electrical equipment is required, approval of electrical connections by the Town of Berryville Director of Public Works must be obtained at forty-eight (48) hours prior to any such lighting or equipment being placed in use.
8. All groups using the Rose Hill Park facilities will be responsible for setting up any equipment, such as chairs and tables, to their own liking. The Town of Berryville cannot provide personnel assistance for any loading, unloading, or setting up of such equipment.

9. All groups using the Rose Hill facilities shall clean up, dismantle and remove any equipment, and in general, leave the premises in the same condition as they found them upon conclusion of the special event. All garbage and trash must be put in heavy-duty plastic trash bags, to be supplied by the sponsoring group, and place in the Park's trash containers.
10. Any and all damage to the grounds, buildings and equipment must be corrected by the sponsoring group to the satisfaction of designated officials of the Town of Berryville. Correction may include replacement if deemed warranted by such Town Officials.
11. All activities and required clean-up shall be concluded no later than 12:00 Midnight of the day of the scheduled event.
12. Users of the Park and its facilities must take adequate provision to guard against public disturbances or other unsafe practices.
14. No event is official until it is entered on the schedule and a special event permit is issued by the Town of Berryville.
15. All groups using the Park and its facilities must abide by these rules and regulations and any special conditions which might be attached to individual permits. In the event unusual and special considerations associated with a particular event would render complete satisfaction of these provisions a hardship, prior approval of any variance or deviation must be obtained from designated Town Officials. The Town reserves the right to require a damage deposit, in such amount as the Town deems appropriate, as a special condition to individual permits.
16. For cause, permits are subject to cancellation or revocation by the Town of Berryville.

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Sec. 20-1. - Purpose.

The purposes of this article are to:

- (a) To establish procedures and standards governing the use of public property by non-town organizations and individuals for the purpose of conducting events, and to ensure the preservation of public convenience in the use of town streets and outdoor areas, the preservation of public order and safety, and the defraying of administrative expenses associated with certain types of uses; and,
- (b) To protect the right of persons and groups to organize and participate in peaceful assemblies to express their political, social, religious, or other views on town streets, sidewalks, other public ways, parks, and other public lands, subject to reasonable restrictions designed to protect public safety, persons, and property, and to accommodate the interest of persons not participating in such assemblies in not having their ability to use town streets, sidewalks, and other public ways to travel to their intended destinations, city parks for recreational purposes, and other town lands for their intended purposes unreasonably impaired.
- (c) The application of the provisions of this article, and any rules and regulations adopted pursuant to these provisions, shall be without regard to the content of the beliefs expressed or anticipated to be expressed during any permitted event.

Sec. 20-2. - Definitions.

Community event means the events listed in section E(21) of the Town of Berryville Regulations for Events and Demonstrations, and such other events designated by town council as "community events" from time to time.

Demonstration means an event involving non-commercial expression protected by the First Amendment of the United States Constitution (such as picketing, political marches, speechmaking, vigils, walks, etc.) conducted on public property, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual activity by persons which does not have an intent or propensity to attract a crowd or onlookers.

Event may refer either to a demonstration or a special event, or to demonstrations and special events, collectively.

Open burning and *open fire* have the same meaning as set forth in this Code section 6-1.

Open flame means fire whose flame is supported by a wick, oil or other slow-burning means to sustain itself. "Open flame" includes, but is not limited to, flame producing devices such as candles, torches, and juggling or other fire artist equipment; provided, however, that "open burning and open fire" and "open flame" shall not include handheld candles when used for ceremonial purposes, provided that they are not held or used in an intimidating, threatening, dangerous or harmful manner.

Prohibited items shall mean:

- (1) All items prohibited by law from being held, carried, displayed, worn or otherwise used in public;
- (2) Items banned from public or park lands;
- (3) Any BB guns, pellet guns, air rifles or pistols, paintball guns, pellet guns, nun chucks, tasers, stun guns, heavy gauge metal chains, lengths of lumber or wood, poles, bricks, rocks, metal beverage or food cans or containers, glass bottles, axes, axe handles, hatchets, ice picks, acidic or caustic materials, hazardous, flammable, or combustible liquids, dogs (except service dogs), skateboards, swords, knives, daggers, razor blades or other sharp items, metal pipes, pepper or bear spray, mace, aerosol sprays, catapults, wrist rockets, bats, sticks, clubs, drones, explosives, fireworks, open fire or open flames, or other item considered an "implement of riot";

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- (4) Any items capable of inflicting bodily harm when these items are held or used in an intimidating, threatening, dangerous or harmful manner; and
- (5) Law enforcement or military-like uniforms or uniform-like clothing, badges, insignia, shields, hats, helmets, masks, equipment and other items that when held, carried, displayed or worn tend to suggest or imply that the wearer is a current member of law enforcement, the military, a private militia, or other public safety organization, such as a fire department or emergency medical services agency.

Special event means sports events, pageants, celebrations, historical reenactments, carnivals, music festivals and other entertainments, exhibitions, dramatic presentations, fairs, festivals, races (i.e., runs/walks), block parties, parades and other, similar activities, conducted on public property, which (i) are not demonstrations, and (ii) are engaged in by twenty five (25) or more persons. The term "special event" shall be construed to include a community event or private organization celebration held in or on town-owned property and is attended by more than twenty five (25) people. The term "special event" shall exclude gatherings of ten (10) or more people in a park for general recreational or sports activities.

Sponsor means the person (as defined above) or persons who sign, or whose authorized representative(s) sign, an application for an event permit and who will be responsible under the permit, if issued, for ensuring that the event will be conducted in accordance with these regulations. Where a purported sponsor is not a legal entity, the sponsor shall be the individual(s) signing the permit application.

Sec. 20-3. - Permit required.

- (a) The town manager is authorized to adopt standard operating procedures that establish a permit application process. The procedures shall also provide for the grant or denial of permit applications within specified times; establish the grounds for revocation of an approved permit; provide for the application of reasonable time, place and manner regulations for permitted events; establish reasonable fees, charges, rentals and insurance and indemnification requirements; and restrict the possession or use of prohibited items, as defined herein, during the event.
- (b) Any person intending to hold or sponsor an event on any town-owned or leased property must first obtain a permit, unless:
 - (1) The event is exempt from permitting requirements under the standard operating procedures promulgated by the town manager; or
 - (2) Such person is holding or sponsoring such event pursuant to a valid permit issued by the town manager pursuant to another chapter of this Code.
- (c) By accepting a permit issued by the town pursuant to this article, the sponsor represents that:
 - (1) All information included or presented as part of the permit application was, to the best of the sponsor's information and belief, complete and correct;
 - (2) That all terms and conditions of such permit have been or will be complied with; and
 - (3) That a copy of the permit will be made available for inspection by any town representative during the event.

Sec. 20-4. - Insurance requirements.

- (a) To further the goal of public safety and to protect the town and its officers, officials and employees from claims for damage to property or bodily injury occurring during the event, the sponsor of an event shall be required to furnish a general liability and property damage insurance contract insuring the sponsor's liability for personal injury and death and damages to property resulting from its use of public property. The required general liability and property damage insurance, unless waived in whole or in part, shall be provided in an amount not less than one million dollars (\$1,000,000.00),

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and the insurance policy shall name the town (including its officers, officials, employees and agents), as additional insured parties to the insurance contract.

- (b) This insurance requirement may be waived, in whole or in part, by the town manager or his or her designee because:
 - (1) The cost of the insurance will result in a documented financial hardship to the sponsor; or
 - (2) For an event that:
 - a. Does not pose a high level of liability risk to the town or a material risk to public safety; and
 - b. Does not involve any inherently dangerous activity.

A written request to waive or modify any insurance requirement must be made by the sponsor at the time a permit application is submitted. An approval or denial of the request will be made in writing to the event sponsor.

- (c) The decision on whether the insurance requirement will be waived in whole or in part will be based on the following factors:
 - (1) Whether the event and planned activities present a risk of personal injury or property damage;
 - (2) Whether the event involves a large number of participants relative to the size of the event venue;
 - (3) Whether the event involves the preparation and sale of food;
 - (4) The duration of the event; and
 - (5) Whether the event involves transportation or installation of heavy equipment, or the installation of a stage or other temporary structures. Provided however, that, in deciding whether insurance will be required or waived for a demonstration the town manager or his or her designee shall not consider the number of anticipated onlookers or counter-demonstrators, the potential risk of property damage or bodily injury that may be caused by onlookers or counterdemonstrators, nor the possibility that the demonstration will be controversial in nature.

Sec. 20-5. - Violations and penalties.

The following conduct is declared to be unlawful and shall be, upon conviction, punishable as a class IV misdemeanor, unless a greater penalty is authorized and imposed in any other chapter of this Code or by the laws of the Commonwealth of Virginia:

- (a) Sponsoring, holding or conducting an event for which a permit is required, without first obtaining a permit;
- (b) Sponsoring, holding or conducting a permitted event on days or at times not authorized by the permit;
- (c) Intentionally providing false, misleading or incomplete information in a permit application;
- (d) Failing to comply with any terms or conditions placed on a permit;
- (e) The failure to comply during an event with any lawful directive of a law enforcement officer, or with any lawfully posted public sign, direction or instruction;
- (f) Climbing, during an event, upon any tree, or any wall, fence, shelter, fountain, statue, or any other structure not specifically intended for climbing purposes;
- (g) Rendering any part of an event venue dangerous, unsafe or unsuitable for use by others;
- (h) Closing any street or public right-of-way during an event, or using any street or right-of-way in a manner that obstructs vehicular or pedestrian passage during an event, without first obtaining a street closing permit;

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- (i) Holding, carrying, displaying or using any prohibited item as defined herein within the area where a permitted event is taking place, without the prior written consent of the town manager or his or her designee;
- (j) Throwing or propelling objects of a potentially dangerous nature during an event, including but not limited to rocks, bottles, sticks, staffs, glass objects or cans;
- (k) Engaging in a course of conduct or committing any act that endangers the public welfare or safety of others during an event;
- (l) Damaging landscaping, plantings, improvements, equipment or structures located on town property where an event is being held.
- (m) Unreasonably hampering, obstructing, impeding, or interfering with any parade, demonstration, assembly, or event; or with any person, vehicle, or animal participating or used in a parade, demonstration, assembly, or event, for which a written permit has been issued in accordance with the provisions of this chapter.

In addition to the criminal sanctions authorized herein, any person engaging in the unlawful conduct proscribed by this section, or who violates any section in this article, may also be held civilly liable for any damages or loss, and may be banned from the future use of town-owned property for a specified period of time.

Revision Table

Draft V2_9/2018

Page	Revision
I	Table of Contents added
1	Commercial Activity defined
2	Event liaison – language struck
6	Requests for information – language added
9	Permit revocation (a) – designee language added
13	Limited duration (5) – hours decreased from 48 to 8
14	(8)b – Commercial activity prohibition in Rose Hill Park added
15	Signs and banners – (10)a struck
16	(10)e struck
16	(12)d – Removal of temporary structure reduce from 24 hours to 8
17	(12)d – Berryville Planning Department added
17	(15) Open Flames – Town Code 13-36 cited – Fires in Rose Hill Park
19	(16)a1(A)(7) – Fire Chief replaced with Director of Fire and EMS
20	(16)a1(A)(8) – Fire Chief replaced with Director of Fire and EMS
21	(18) Parades removed from section
22-23	Additional Community Events added

Draft V3_10/18

Page	Revision
2	Sec. II Town Planning Department added
6	Permit Applications C(2)e – Reworded for clarity
8	D(5)b - Grammar
10	D(8)a – Permit revocation – Language added for electronic written notice
13	E(3) – Permit Conditions – “Park” added to list of sites

Draft V4_11/18

Page	Revision
3	Community event added to Event definition language
4	Streets definition - grammar
5	C.(1) Permits – “will” replaced with “may”
5	C.(2) Events Coordinator replaced with Events Liaison
7	D.(1) Events Coordinator replaced with Events Liaison
7	D.(2) Referenced section (21) corrected to E(21)
14	E.(5) – “will” replaced with “may”

Draft V6_01/19

Page	Revision
6	C(2)d – “If applicable” added to text
12	E(2)a1 – Time of day modified from 4:00 pm to 3:30 pm
12	E(2)b – Hours of closure changed from 8 to 10
13	E(3) – “Town” removed from buildings to include all buildings and not just Town owned.
14	E(5) - Hours of closure changed from 8 to 10
18	E(12)d - Hours of closure changed from 8 to 10

Final Draft V7_05/19

Page	Revision
All	All corrections and revisions incorporated and formatted
All	Review and recommendations of legal counsel incorporated

