

AN ORDINANCE REQUIRING A PERMIT TO CONDUCT SPECIAL EVENTS WITHIN THE TOWN OF ELKIN CORPORATE LIMITS

1. **Non – Discrimination:** the Chief of Police shall uniformly consider each application upon its merits and shall not discriminate in granting or denying a permit under this ordinance based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

2. **Definitions:** for purposes of this section, the following terms shall have the meaning indicated:
 - (a) *City limits* – any area within the incorporated limits of the Town of Elkin

 - (b) *Public Place* – public streets, sidewalks, and right of ways of public streets, parking lots, alleys and any other Town owned property that is open to the general public (i.e. any property that is a part of the Elkin Recreation and Parks System).

 - (c) *Demonstration* - means any demonstration, picketing, pamphleteering, leaf letting, march or other event organized or held primarily for purposes associated with the First Amendment of the U.S. Constitution. This term shall not include purely commercial speech or for-profit events.

 - (d) *Special Event* - An event includes but is not limited to: parades, festivals, demonstrations, blocking streets or any other assemblies where two or more people are gathered together and the event is open to the general public excluding family reunions and birthday parties of less than 100 people.

 - (e) *Chief of Police* – the Chief of Police of the Town of Elkin, or his designee.

 - (f) *Town* – Town of Elkin

 - (g) *Sponsor* – any group, firm, partnership, association, corporation, company, school, or organization of any kind that is sponsoring the event.

 - (h) *Applicant* - the person that represents the sponsor and that will complete, sign, take responsibility for and have notarized the event application.

 - (i) *Sidewalk* – means any area of way set aside or opens to the general public for purposes of pedestrian traffic, regardless of its construction (i.e. paved asphalt, concrete, rock dust, dirt or other construction types).

- (j) *Street* – means any place or way set aside or open to the general public for purposes of vehicular traffic, including any right of way or median strip thereof and is maintained by the Town of Elkin or the North Carolina Department of Transportation; and, all public vehicular areas, and parking lots both private and public.
- (k) *Town Property* – means any property owned, leased, or occupied by the Town of Elkin.
- (l) *Malt Beverage*: means any beer, lager, malt liquor, ale, porter, or any other brewed or fermented beverage containing at least one-half of one percent (.5%).
- (m) *Unfortified Wine*: means wine that has an alcoholic content produced only by natural fermentation by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not more than seventeen percent (17%) alcohol by volume.
- (n) *Open Container*: means a container whose seal has been broken or a container other than the manufacturer’s unopened original container.
- (o) *Food Service Establishment*: means an establishment engaged in the business of regularly selling food, customarily, but not exclusively, to be eaten on the premises, including businesses that are commonly referred to as restaurants, cafes, grills and other establishments that have a food counter where food is sold.
- (p) *Winery*: means an establishment regularly engaged in the manufacture, sale or marketing of wine.

3. Allowance of Special Event upon Issuance of a Permit.

Special Events. Upon issuance of a permit by the Chief of Police, restaurants, food service establishments, businesses, wineries and any other organizations may hold a Special Event within public right of ways and on Town owned property within the Town of Elkin Corporate Limits as designated in a “Special Event Permit”.

4. Applications may be approved by the Chief of Police upon meeting the following requirements:

- (a) A written application for a Special Event permit, including street closures, must be submitted to the Chief of Police at least thirty (30) days prior to the event. A detailed site map indicating, at a minimum, the stage area, concessions, tables and seating area, designated beer or wine gardens, parking areas and locations where the road may be blocked off shall also be required. A copy of the application and permit shall be submitted and retained by the Office of the Town Clerk.
- (b) A statement of the Applicant’s intent whether to serve or to allow the consumption of beer and wine. If serving alcoholic beverages, a copy of the Applicant’s ABC permit demonstrating that the Applicant is properly licensed to allow the consumption of beer and wine within the plan-defined area, and a verified statement by the Applicant that:
 - (i) applicant’s/sponsor’s ABC permit is in good standing;

- (ii) the applicant/sponsor has not been cited for any violation of its ABC permit for the premises within the previous three (3) year period. If the Applicant has been cited, the Applicant must provide a statement describing the circumstances for which it was cited and describing what, if any, penalty was imposed for the incident;
- (c) The Applicant's plan must also indicate that the festival or event area must be maintained, and all debris or refuse removed from the area, at regular intervals during the business day so as to maintain an orderly appearance and to prevent the attraction of vermin, insects, or other pests to the area.
- (d) The plan must also indicate that the Applicant must maintain an unobstructed path for pedestrian travel on all sidewalks within the event area at least five (5) feet wide at all times. If the permit does not provide for street closure, the applicant must maintain an unobstructed path for vehicular traffic on all streets within the event.
- (e) The Applicant agrees to remove all obstructions and additions to the festival area immediately upon completion of the festival in order to open the streets to public use as soon as possible; and
- (f) The Applicant agrees that at no time will anyone be allowed to block access to a fire hydrant in the street festival area.
- (g) The Applicant, or an authorized officer or member of the sponsoring group, must sign an agreement to indemnify and hold the Town of Elkin harmless from any and all claims of property damage, personal injury or death arising from any services provided at the Special Event by the applicant or his designee.
- (h) The Town of Elkin Recreation and Parks Director must also approve any request for the use of any property that is under his direction that is a part of the Town of Elkin Recreation and Parks Department.
- (i) The Chief of Police will notify the Town Manager and all department heads before a permit is issued to make them aware of the application and to determine if there are any issues that need to be considered.

5. In the review of the special event permit requests, the Chief of Police shall be guided by the following considerations:

- (a) The number of permits issued and the area or areas for which such permits are issued in relation to crowd density, traffic control, the ability to protect persons and property, fire prevention and control, general safety and availability of Town assets and resources to ensure the reasonable protection of the general public; and, the disruption of normal business for merchants in the area.
- (b) In those instances in which the Chief of Police, or designee, considers Town resources to be insufficient to meet the above considerations, the Police Chief, or designee, may require the applicant for such permit to provide, at the applicant's expense, Elkin police officer(s) for the duration of the permit.

- (c) The Chief of Police, or designee, shall have the authority to designate the boundaries of any Public Street Festival or Special Event area. To accommodate such an event, the Police Chief, or designee, is further authorized to temporarily close any public streets, sidewalks or other Town owned areas within the boundaries of any proposed Special Event.

6. Sale and Consumption of Alcoholic Beverages may be permitted at Special Events.

It shall be lawful for a Special Event Sponsor to serve or sell malt beverages and unfortified wine where the boundaries of the area in which such beverages are sold and consumed is clearly delineated in the permit, where access to such area is restricted to persons who shall be at least 21 years of age and where the following requirements are met:

- (1) All applicable health, ABC laws, and Town of Elkin Ordinance(s) concerning alcohol are complied with unless waived by the Town of Elkin Board prior to the event.
- (2) All malt beverages or unfortified wines must be sold and consumed within the area delineated in the permit for the sale and consumption of malt beverages or unfortified wine.
- (3) All empty bottles and cans shall be recycled or handled in such a way as to not be broken or left on Town property.
- (4) The sponsor shall be required to maintain proper decorum and order and to leave the area in a clean condition.
- (5) The applicant/sponsor shall have in full force general liability and liquor liability insurance in the amount one million dollars (\$1,000,000.00) each, with the Town of Elkin being named as an additional insured.
- (6) In addition to approval by the Chief of Police, the Board of Commissioners of the Town of Elkin shall approve each permit for the sale and consumption of alcoholic beverages at special events.

7. Firearms.

Except for sworn certified Law Enforcement personnel, the possession of firearms at the Special Event area is prohibited.

8. Application Fee.

The application processing fee will be based on the current schedule of fees as established by the Town of Elkin Board of Commissioners.

9. Penalty - Conflict.

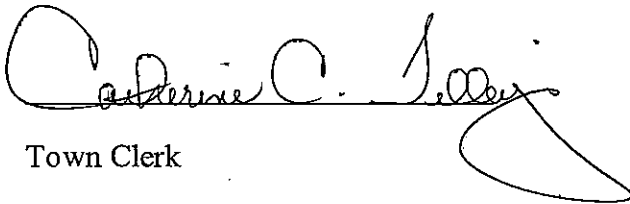
Penalty- Any violation of this ordinance shall constitute a misdemeanor, punishable as provided in North Carolina General Statutes Section 14-4. A fine of \$100 will be assessed for

any violation of this ordinance to the applicant. A violation of an event permit issued pursuant to this Ordinance may result in an immediate revocation of the permit and a possible ban on future permits.

This Ordinance shall take effect from and after the 12th day of June 2010.


Mayor

ATTEST:


Town Clerk

The following Commissioners voted for the passage of this Ordinance: Lowe, Walker, Kennedy, McCulloch.

The following Commissioners voted against the passage of this Ordinance: None.

NOTE: Commissioner Ripley was excused from this vote.