

ORDINANCE NUMBER 61 -09

AN ORDINANCE AMENDING TITLE 5, CHAPTER 5.18 OF THE MASON COUNTY CODE FROM MUSICAL FESTIVALS TO TEMPORARY OUTDOOR PUBLIC EVENTS

AN ORDINANCE amending Title 5 (Business Taxes, Licenses and Regulations), Chapter 5.18 (Music Festivals).

WHEREAS, the Board of County Commissioners adopted through Ordinance 145-81 regulation of musical festivals in Mason County; and

WHEREAS, the sections provided under Ordinance 145-81 and Mason County Code Chapter 5.18 are limited exclusively to musical festivals; and

WHEREAS, representatives of several County departments participated in the drafting of an this ordinance to create a process that more accurately addresses the needs and interests of Mason County and that more inclusively regulates all applicable festivals and events; and

WHEREAS, this code amendment will be facilitate more comprehensive and responsible approach to the coordination of such events to better protect and preserve of the public peace, health, safety, morals, and welfare of the citizens and guests of Mason County.

NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby amends amending Title 5 (Business Taxes, Licenses and Regulations), Chapter 5.18 (Music Festivals) to Chapter 5.18 (Temporary Outdoor Public Event) (Attachment A).

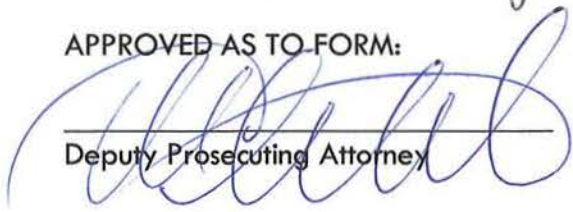
DATED this 7th day of July, 2009.

Board of Commissioners
Mason County, Washington

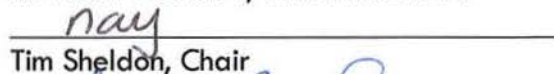
ATTEST:


Shannon Goudy, Clerk of the Board

APPROVED AS TO FORM:


Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Tim Sheldon, Chair


Lynda Ring-Erickson, Commissioner


Ross Gallagher, Commissioner

Attachment A

TITLE 5 - BUSINESS LICENSES AND REGULATIONS SECTION 5.18 - TEMPORARY OUTDOOR PUBLIC EVENT

Sections:

- 5.18.010 Definition
- 5.18.020 Basic clause
- 5.18.030 Event Location and Duration Limitations
- 5.18.040 Permit required - Fee regulation
- 5.18.050 Age of Applicant
- 5.18.060 Permit application - Procedure
- 5.18.070 Submission of plans for approval - Approving agencies
- 5.18.080 Pre-Application Conference
- 5.18.090 Conditions
- 5.18.100 Compliance with Rules & Regulations
- 5.18.110 Revocation of Permit - Statement of Right
- 5.18.120 Variances
- 5.18.130 Enforcement
- 5.18.140 Violation - Penalty
- 5.18.150 Severability

5.18.010 Definition

“*Temporary Outdoor Public Event*” shall be any temporary activity lasting more than four (4) contiguous hours that is not designed or intended to be a permanent use of a structure(s) or the land it occupies. Such events are open to the public with or without a fee for a specified period/duration of time that is prearranged with and permitted by Mason County and will attract and accommodate the following number of people at any given time.

- 5,000 or more for events occurring within the Urban Growth Areas
- 3,000 or more for event occurring outside the Urban Growth Areas

Such events can include, but are not limited to, presentations of outdoor, live or recorded musical entertainment or other large event which the applicant or Director of Community Development, or designee, believes or has reason to believe will attract numbers of people as described above. Events for any number of people which are not advertised as open to the public with or without a fee or events which are authorized by public schools or governmental entities held on public lands shall not be classified as Temporary Outdoor Public Events and shall not be subject to the standards set forth in this code section. Examples of events that are exempt shall include, but not be limited to, the following:

- (a) Family reunions/picnics;
- (b) Weddings, Birthdays, Anniversaries, Funerals;
- (c) Events held on school grounds;
- (d) Business or Corporate Retreats;
- (e) Organized religious events located at an established religious facility;

Attachment A

- (f) Events, uses or activities which have been authorized through an approved discretionary land use permit; or which are conducted in a public park or on public lands¹ with approval of the local governing agencies;
- (g) Events subject to the exemptions of Section 5.18.060(c).

5.18.020 Basic clause

It shall be unlawful for any person, persons, corporation, organization, landowner, or lessor to allow, encourage, organize, promote, conduct, permit or cause to be advertised a temporary outdoor public event ("Event") unless a valid county permit has been obtained for the operation of said Event. One such permit shall be required for each event as defined in Section 5.18.010. Criminal or civil liability for failure to comply with the provisions of this chapter shall rest in all persons, corporations, organizations, landowners or lessors who are responsible for obtaining permits under this provision.

5.18.030 Event Location and Duration Limitations

- (a) Temporary Outdoor Public Events shall be allowed, upon approved application, within all Mason County urban growth areas and any rural residential districts outside the urban growth areas. The approval of an event permit provides for a temporary use of that property not otherwise allowed. All other regulations, aside from the approved event, shall remain in effect.
- (b) Events within these areas shall be limited to fourteen (14) cumulative days on any individual property within a twelve (12) month period. It is at the applicant's discretion as to how the days are utilized throughout the twelve (12) month period.

5.18.040 Permit required - Fee regulation

No temporary outdoor public event may be held in Mason County outside the limits of the incorporated cities unless the person or persons sponsoring said event shall first obtain a permit as hereinafter provided, and shall comply with all regulations herein provided and that the fee for the temporary outdoor public event permit to meet the cost of administering the same shall be \$250.00 for each event.

5.18.050 Age of Applicant

No permit shall be issued to any person under eighteen (18) years of age, or twenty-one (21) if alcohol is to be served.

5.18.060 Permit application - Procedure

- (a) Written application for a temporary outdoor public event permit shall be made to the Permit Assistance Center, 426 W. Cedar Street, Shelton, WA 98584 and said application must be submitted sixty (60) or more days prior to the first day upon which said Event is to be or may be held. Approval of permits as herein provided for shall be made within forty-five (45) days after application therefore unless such permit shall be denied. Denial of the permit by the Department of Community Development shall be in writing with reasons for the denial and shall be subject to appeal to the Hearing Examiner by action filed within ten (10) days of the denial.

¹ Public lands as defined herein shall be those properties owned and/or operated by government agencies including state, county, municipal, township, district, or other governmental unit.

Attachment A

- (b) The County may require proper insurance, indemnification and hold harmless agreements, proof of possession of any Federal, State, or locally required permits or licenses, damage deposits, deposits for payment for cleanup, traffic control, security and other similar requirements which shall be identified in the permit.
- (c) No fee, indemnification agreement or insurance requirement shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised; if part of any annual tradition or series, previous events in the sequence; and the public perception of the event.
- (d) A valid approved permit shall be posted at least ten (10) days prior to each event and at all times during the event in a conspicuous place where any event subject to this section is being conducted.

5.18.070 Submission of plans for approval - Approving agencies

Whenever approval by a County government agency other than the Department of Community Development is required, application for such approval shall be made in the same manner at the times provided when applying for a permit for the temporary outdoor public event. When any type of physical facility is required or subject to approval hereunder, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. All such facilities shall be subject to inspection by the approving agencies or departments. Should the actual facility or construction fail to meet the standards approved in the proposed plans such preliminary approval shall be withdrawn and any and all permits granted subject to such approval shall be withdrawn.

5.18.080 Pre-Application Conference

Every person, corporate or organization representative, landowner or lessor applying for a new or modified Temporary Outdoor Public Event permit shall attend a Pre-Application Conference. The purpose of this conference is to discuss the nature of the proposed Event, the application and permit requirements, fees, review process and schedule, applicable plans, map, policies and regulations. In order to expedite review of the application, the county shall invite all affected departments, agencies and/or special districts to the Pre-Application Conference. County staff will give preliminary feedback to the potential applicant based on the level of information provided by the applicant at the conference and will inform the applicant of issues or special requirements that may result from the Application. The more information provided by the applicant for the pre-application conference, the more effective the comments from staff will be on the components of the proposed Event.

5.18.090 Conditions

- (a) Public Health Department: No permit for a temporary outdoor public event shall be granted unless the application is accompanied by the written approval of the Mason County Health Department indicating that the applicants for said permit have complied with the health requirements of said department for like

Attachment A

or similar facilities. Said approval shall indicate the type and adequacy of water supply to be provided, the type and adequacy of toilet, waste collection and washing facilities to be provided, and if there is to be food served on the premises, the type and adequacy of food preparation and food service facilities to be provided.

- (b) Fire Protection: No permit shall be granted hereunder unless the applicant has shown that the Mason County Fire Marshal has approved fire protection devices and equipment available at, or near any building, tent, stage or enclosure wherein or whereupon persons may be expected to congregate at any time during the course of such temporary outdoor public event for which a permit is hereunder required.
- (c) Traffic Control - Police Protection: No permit shall be granted hereunder unless it shall be approved by the Mason County Sheriff's Department that adequate traffic control and crowd protection have been contracted for or otherwise provided by the applicant. Should the event location impact a state route, the appropriate state agencies shall be involved in any traffic control and police protection plans.
- (d) Parking: Application for a permit under this title shall be accompanied by a scale drawing showing adequate off street parking facilities having been available adjacent to the location for which the permit is requested. Adequate ingress and egress shall be provided from such parking area to facilitate the movement of any vehicle at any time to or from the parking area. PROVIDED, that should buses be used to transport persons to the entertainment, amusement or assembly, it shall be shown that public parking or parking as described above is available at any site from which buses are scheduled to transport persons to an event regulated by this Chapter. Traffic resulting from any temporary activity shall not adversely affect surrounding properties or adjoining rights of way. The Director of Public Works shall make any determination of adverse affects.
- (e) Inspection: No permit shall be granted hereunder unless the applicant shall in writing upon the application for such a permit consent to allow the law enforcement and public health and fire control officers of the county come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions under which the permit is granted.
- (f) Location: No temporary outdoor public event shall be operated in a location that is closer than two hundred fifty (250) feet from any schoolhouse, church, house, residence or other human habitation. Variation from this requirement will be at the discretion of the permitting authority and evaluated on an individual basis. Applicants may seek written permission or waivers from property owners within 250 feet of an event to submit when requesting a variation from this requirement.
- (g) Traffic / Access Plan: A traffic control plan shall be submitted as part of the application package that shows the measures intended to minimize impacts to the roads and traffic. This should include a description of the expected traffic volumes, what measures will be used for traffic flow control, and what signs are proposed. A Road Use Permit will be required for road closures or event parking on County roads or in the County road rights of way.
- (h) Public Safety Plan: A Public Safety Plan prepared and submitted in accordance with Chapter 4, Section 403.2 of the 2006 International Fire Code or most

Attachment A

current edition. This plan shall provide for an appropriate level of public safety under the authority and approval of the Mason County Fire Marshal in consultation with additional local fire districts, as applicable. The contents of this plan shall include, but are not limited to, provisions for emergency vehicle ingress and egress, fire protection, emergency medical services, and the need for fire and emergency medical services personnel at the event.

5.18.100 Compliance with rules and regulations

No application for a temporary outdoor public event permit shall be issued until the Department of Community Development shall have had an investigation and report as to whether the location or place to be used as a site for a temporary outdoor public event conforms to all rules and regulation of the Code of Mason County and the state law, particularly in regard to land use, fire, health, building, sanitary conditions and toilet conveniences.

5.18.110 Revocation of permit - Statement of Right

The temporary outdoor public event permit issued under the provisions of this Chapter shall state in substance that such permit is issued as a public safety, sanitary and fire requisition measure, and that the right of the Department of Community Development to revoke such permit is a consideration of issuance. If any Temporary Outdoor Public Event in Mason County is not being operated in accordance with the rules and regulations prescribed in this Chapter and set forth in the State law, the permittee shall be subject to revocation of the permit, and the permittee or other individual responsible subject to such other punishment as the law and this Chapter provide.

5.18.120 Appeals

Administrative decisions of the Community Development Director or her/his designee shall be final and conclusive, unless a written statement of appeal is filed using the appeal procedures contained in Mason County Development Code Chapter 15.11 Appeals. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee in an amount as set by resolution of the board.

The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is heard and decided or is withdrawn. The burden of proof regarding modification or reversal shall rest with the appellant.

5.18.130 Enforcement

Mason County is hereby authorized and directed to see that all provisions of the state law and local rules and regulations are enforced

5.18.140 Violation-Penalty

Any person who shall violate or fail to comply with any provision of this chapter or who shall counsel, aid or abet such a violation or failure to comply shall be deemed guilty of a gross misdemeanor and shall, upon conviction thereof, be fined in the sum of not more than one thousand dollars (\$1,000) or imprisoned in the County Jail for not more than ninety (90) days, or both. Compliance shall constitute minimum health, sanitation and safety provisions and failure to comply with the terms and conditions shall

Attachment A

constitute a public nuisance and shall be subject to all criminal, civil, and equitable remedies as such.

5.18.150 Severability

If any section of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter shall remain in effect.