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MEMORANDUM

TO: Chairman Richeson and members of the Planning Board
FROM: Rob Testerman, AICP, CFM, Director of Planning & Inspections
DATE: May 25, 2023
RE: **Sec 18-11.-Outdoor events and gatherings; Sec. 18-22.- Mobile food vendors; 42-502.-Temporary uses**

Attachments

1. Existing Sec. 16-1 and Sec. 18-11
2. Proposed revision to Sec. 42-502.- Temporary uses
3. Proposed Sec. 42-502(6) Temporary outdoor art markets
4. Proposed Sec. 18-22.- Mobile food vendor
5. Proposed revisions to Sec. 18-11.- Outdoor events and gatherings

Proposal

As previously noted, Staff has been directed to draft language pertaining to temporary outdoor markets. Previously, these had been permitted under Sec. 18-11 of the town code, however upon closer examination, it was evident that the ordinance was not intended to regulate this type of temporary use.

In fall of 2022, Council reviewed and adopted minor changes to Sections 16-1 and 18-11 (attached). Since that time it was requested that staff form a committee of residents/business owners to discuss potential ordinances that would address the issues at hand.

Issues that the ordinance attempts to address include providing an avenue for local business owners to host small scale, temporary art markets while not having such loose regulations that the markets are happening so frequently that they begin to have a negative impact on the permanent businesses in Town. In addition to the proposed new language, staff has recommended amending Sec 42-502 to allow staff to approve temporary uses, rather than requiring Council approval.

Additionally, staff has drafted language aimed at regulating food trucks/mobile food vendors that may wish to operate in Town. Currently, there are limited instances in which a food truck is permitted to operate in Kitty Hawk. One avenue is that if an approved outdoor event has food trucks as a vendor. Additionally if there is an event such as a grand opening that a business wishes to have a food truck, the Town has allowed that on the condition that the host business purchases all of the food that is to be distributed, so that the trucks are simply serving the public, not charging them.

The third part of the proposal is to amend Sec. 18-11 back to it's basic previous language with minor changes. If used to regulate large outdoor events and gatherings, as staff feels was the intent (bike week, the marathon, surf contests, etc), Sec 18-11 appears to be sufficient.

Consistency with Land Use Plan

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Goal #4: Ensure continued commercial development in commercially zoned areas of Kitty Hawk and the continued vitality of existing businesses

Objective 4b: Encourage local support and patronage for Town businesses

Objective 4d: Seek input from business owners concerning Town policies

Objective 4e: Seek ways to provide and ensure a safe environment for pedestrians in commercial areas; to minimize pedestrian-vehicular conflicts in commercial areas; and, to improve circulation patterns in commercial areas

Objective 4g: Periodically assess land use type needs, commercial zoning district boundaries, economic development conditions and emerging trends, and the types of permitted uses allowed in commercial zoning districts.

Goal#5: Remain aesthetically pleasing while maintaining coastal village image.

Policy 5a: Kitty Hawk will continue to adopt, enforce, and amend as necessary ordinances and procedures to regulate and improve community appearance.

Planning Board Action

The Planning Board is asked to provide the Town Council with a recommendation regarding the text amendment proposals. The Planning Board may recommend approval, recommend approval with modifications, or recommend denial of the proposed text amendments.

For clarity, staff has broken each proposal into separate motions for the Board's consideration:

1. Revised Sec. 42-502.- Temporary Uses

Should the Board decide to recommend approval of the revised text amendment, the motion could be worded in the following manner:

"I recommend approval of the proposed text amendment to Sec. 42-502, allowing Town staff to approve those temporary uses listed in the ordinance. The Board has found this proposal to be consistent with the Town's adopted land use plan."

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

"I recommend denial of the proposed text amendment to Sec. 42-502. The Board has found this proposal to be inconsistent with the Town's adopted land use plan."

2. Proposed Sec. 42-502(6).- Temporary outdoor art markets

Should the Board decide to recommend approval of the revised text amendment, the motion could be worded in the following manner:

“I recommend approval of the proposed text amendment to Sec. 42-502(6), allowing temporary outdoor art markets, as described in the provided language. The Board has found this proposal to be consistent with the Town’s adopted land use plan.”

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

“I recommend denial of the proposed text amendment to Sec. 42-502(6). The Board has found this proposal to be inconsistent with the Town’s adopted land use plan.”

3. Proposed Section 18-22.- Mobile food vendors

Should the Board decide to recommend approval of the revised text amendment, the motion could be worded in the following manner:

“I recommend approval of the proposed text amendment to Sec. 18-22, mobile food vendors, as described in the provided language. The Board has found this proposal to be consistent with the Town’s adopted land use plan.”

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

“I recommend denial of the proposed text amendment to Sec. 18-22. The Board has found this proposal to be inconsistent with the Town’s adopted land use plan.”

4. Revised Sec. 18-11.- Outdoor events and gatherings

Should the Board decide to recommend approval of the revised text amendment, the motion could be worded in the following manner:

“I recommend approval of the proposed text amendment to Sec. 18-11, revising the regulations pertaining to outdoor events and gatherings. The Board has found this proposal to be consistent with the Town’s adopted land use plan.”

Should the Board wish to recommend **denial** of the proposed text amendment, the following motion could be used:

“I recommend denial of the proposed text amendment to Sec. 18-11. The Board has found this proposal to be inconsistent with the Town’s adopted land use plan.”

Attachment #1. Existing Sec. 16-1 & Sec. 18-11

Sec. 16-1. Selling goods on public property.

- (a) Business activities of itinerant merchants, salesmen, promoters, drummers, peddlers, flea market operators and flea market vendors or hawkers are prohibited within the boundaries of the Town, except as authorized by Sec. 18-11 and 42-502.
- (b) No license issued pursuant to this chapter shall authorize or allow a commercial business activity prohibited by this section.
- (c) Violations of the provisions of this section shall be a misdemeanor. Notwithstanding the criminal penalties, the offender shall also be subject to a civil debt of \$50.00 per day in addition to other penalties. No such civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of the continuing violation shall constitute a separate violation.
- (d) This section shall not apply to the activities of any employee of the town within the scope of his employment or any department of the town acting within the scope of its responsibility, and this section shall not apply to any organization providing services pursuant to a written contract with the town for public purposes that the town is authorized by law to provide.

(Code 1990, § 9-1; Ord. No. 83-7-89A, §§ 1—3, 5, 1-16-1989)

State law reference(s)—Municipal authority to regulate peddlers, itinerant merchants, etc., G.S. 160A-178; penalties for ordinance violations, G.S. 160A-75, 14-4.

Sec. 18-11. Outdoor events.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means any person, group or organization that sponsors, organizes or arranges an outdoor event.

Outdoor event means any event or gathering that occurs outdoors and that:

- (1) Represents a use or uses of land, buildings and structures not intended to be of a permanent duration;
 - (2) Is intended to or likely to attract substantial crowds, participants and/or spectators;
 - (3) Is advertised and/or open to the general public;
 - (4) Is held to promote or is sponsored by a commercial business; and
- (b) *Permit requirements.* No outdoor event shall be held, commenced or advertised until such time as a permit is applied for and issued in accordance with this section. A permit issued under this section shall be valid for a period of two consecutive days. All outdoor events shall be contained either within the applicant's property or within property upon which the applicant has written permission from the owner to use. If live music or electric sound amplification is being proposed in conjunction with the outdoor event, the applicant must comply with section 18-2. Outdoor event permits are limited to six permits per parcel in a twelve month period.
 - (c) *Permit application.* Applicants, if required under subsection (b) of this section, shall submit a permit application to the town planning department. Such application shall be presented not less than 15 days prior to the scheduled event and shall contain the following information:
 - (1) The name and address of the applicant;
 - (2) The address of the location of the outdoor event;
 - (3) The days and hours for which the permit is desired;

Attachment #1. Existing Sec. 16-1 & Sec. 18-11

- (4) A designation, by reference to identifiable landmarks along with a detailed map, drawn to a scale of at least one inch equals 50 feet describing the approximate area in which such event will be contained, such area to include that required for parking, the event itself, concession areas and any other related activities;
 - (5) An estimate of the anticipated attendance of both participants and spectators;
 - (6) The number of restroom facilities, including handicapped restroom facilities. This number should correspond with the estimated total attendance;
 - (7) In summary format, the general plans of the applicant and sponsor concerning the following matters:
 - a. Crowd control procedures;
 - b. Traffic and parking control;
 - c. The impact of the event on existing parking areas, streets, highways and the burden placed upon public agencies for traffic and crowd security and control;
 - d. The effects of such event on fire control and fire prevention, including safety precautions;
 - e. Provisions for emergency medical services and first aid;
 - f. Provisions for collection and disposal of solid wastes, including trash and garbage and sanitary provisions, including human waste collection and disposal and the providing of sanitary facilities;
 - g. Provisions for returning the site to its pre-event conditions, including, but not limited to, the removal of all debris and trash immediately after the event;
 - (8) The number and types of concessions;
 - (9) The amount, type, and location of temporary signage, subject to the following:
 - a. The total amount of temporary signage shall not exceed 250 square feet in area. Such signage may be in a single sign or a combination of signs;
 - b. All temporary signs shall be located within the boundaries of the area in which the event will be held;
 - c. Temporary signs may not include sandwich boards, inflatable signs, and tethered balloons;
 - d. Temporary signs shall not be illuminated;
 - e. Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed by the permittee at the close of said event;
 - f. Temporary signs shall not be located in a manner that impedes the ingress and egress movement of pedestrians or life safety vehicles to and from all areas of the event.
- (d) *Permit letting procedures.*
- (1) In determining whether or not to issue such permit, the town manager shall consider those items required to be presented in the permit and shall also consider:
 - a. Conflicts and possible conflicts with other commercial events;
 - b. The burden placed by the commercial event on public agencies;
 - c. The adequacy of security, traffic control and crowd control provisions;
 - d. The health and safety conditions for those attending the commercial event; and

Attachment #1. Existing Sec. 16-1 & Sec. 18-11

- e. The capacity of the area designated for the event to contain the expected number of vehicles, participants, and spectators.
- (2) If needed, the town manager shall, upon receipt of an application for a permit, confer with the applicant to determine any other matters deemed relevant by the town manager and to obtain more specific information concerning any item presented in the permit.
- (3) The town manager shall issue a permit when he finds that the proposed activity:
- a. Will not unreasonably interfere with the rights of the general public in having free access along public ways and streets;
 - b. Will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation and that adequate public services are available for crowd and traffic security and control;
 - c. Is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - d. Will not entail extraordinary or burdensome expense or operations on the fire and police departments and other public agencies; and
 - e. Will not interfere with other scheduled events.
- (4) In addition, the town manager must find that the provisions and plans for crowd and traffic control and security, health and sanitation and all matters required to be included in the permit application are adequate and that the applicant and sponsor have the reasonable capability of carrying out such plans and preparations.
- (e) *Permit form.* The town manager, after due consideration of the matters contained in this section, shall either grant or deny such permit within five working days after submission of an application. The granting of a permit shall be by letter to the applicant setting out all conditions of the permit and incorporating any provisions or conditions in addition to statements and presentations in the permit application. Any deviation from the terms and conditions of the permit, or the approved statements contained in the application, or any misstatement of fact made in such application shall be grounds for immediate revocation of the permit at any time by the town manager.
- (f) *Permit denial.* In the event the town manager denies such permit, or subsequently revokes the permit, the applicant shall have seven days in which to appeal such denial or revocation to the town council. Such appeal shall be in writing, stating the grounds thereof and shall be addressed to the mayor and town council with a copy to the town manager. The town council shall hear the appeal at the next regularly scheduled meeting. The decision of the town council shall be final.
- (g) *Permit not grounds for other violations.* The granting of an application is not grounds for the violation of any other ordinance of the town and the applicant shall take whatever steps are necessary to comply with all ordinances of the town, including section 18-2 regulating noise, section 18-10 regulating parades and demonstrations, and article IV of chapter 36 regulation parades. As a condition of approval, the applicant shall notify the town two hours prior to the commercial event that the site is ready for inspection. The town may inspect the site prior to, during, and after the commercial event to verify compliance with this section, the issued permit and all applicable town regulations. Failure to make provisions for complying with this Code shall be grounds for revocation under this section.
- (h) *Nonpermitted events.* Any outdoor event that is commenced without a permit shall be canceled and all participants with their associated equipment shall be disbursed from the site. It is expected that applicants will act in compliance with this section on his own initiative; however, the town manager, chief of police or their representatives may order cancellations of any nonpermitted event if the event is required to have a permit based on the standards of this section.
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Attachment #1. Existing Sec. 16-1 & Sec. 18-11

- (i) *Disclaimer of liability.* In no event shall the issuance of a permit under this section make or cause the town to be deemed a sponsor of the commercial event. Further, the town shall incur no liability for any injury to person or property arising out of any commercial event regulated by this section. Further, as a condition of any permit issued pursuant to this section, the applicant and sponsor shall hold the town harmless and indemnify the town for any liability incurred as the result of a valid judgment in a court of law. It is further provided as a condition of any permit issued hereunder that the applicant shall defend the town against any action filed against it arising out of any commercial event-for which a permit is issued.
- (j) *No permit required.* If a permit is required and obtained pursuant to section 18-10, no additional permitting will be required under this section.

Attachment #2: Proposed Revision to Sec. 42-502

Sec. 42-502. Temporary uses.

The ~~€Town council~~ **staff** may approve, as special uses under the application provisions of section 42-99, the following temporary uses notwithstanding other restrictions of this chapter, but including such additional conditions and safeguards as may be required by ~~the council~~ **staff** as a provision of such approval:

Attachment #3: Proposed Sec. 42-502(6) Temporary outdoor art market

Sec. 42-1 Definitions

Temporary outdoor art/craft market means a temporary outdoor retail operation that may be comprised of multiple vendors and temporary accessory structures in which handmade goods, wares, or merchandise are offered for sale, barter or exchange.

Sec. 42-502(6) Temporary outdoor art market

Temporary outdoor art/craft markets. A temporary outdoor market permit shall be required prior to the commencement of any temporary outdoor markets.

- a. Temporary outdoor sales not meeting the definition of yard sales, per Sec. 42-1, shall be limited to non-residential zoning districts, and the activities of the temporary outdoor markets must be consistent with permitted uses of the zoning district in which the event occurs. This use shall not include flea markets.
- b. Temporary outdoor markets shall not be permitted on unimproved commercial parcels.
- c. Applications for temporary outdoor sales/markets must be made by the owner or tenant of the parcel on which the event is to be held, it is the responsibility of the applicant to ensure all conditions of approval are met and complied with throughout the event.
- d. Applications for temporary outdoor markets must demonstrate that the principle use on the parcel will continue to meet all minimum parking requirements during the periods for such sales. One parking space per approved vendor is required in addition to the minimum parking requirements for the principle use. There shall be no impact on interior circulation.
- e. The area of the lot devoted to the temporary outdoor market shall not exceed 30% of the ground floor area of the principal structure, or sponsoring unit in a multi-tenant structure, whichever is applicable.
- f. Temporary outdoor gatherings are limited to four events per twelve month period per affiliated permanent commercial establishment. Each temporary outdoor market event shall not exceed a period of two consecutive days.
- g. Temporary outdoor art/craft markets shall not interfere with potential fire, police or other emergency response needs on site, as determined by the Town.
- h. Complete applications for a temporary outdoor market must be submitted no less than 15 working days prior to the proposed event, potential rain dates must be identified in the application. The following information shall be included in the application:
 1. Name and address of the applicant, proof of ownership or rental
 2. Address of the location of the outdoor market
 3. A description of the proposed market, including hours of operation, potential noise impacts, parking accommodation, impacts on adjacent property, any associated signs or lighting and provision for temporary utility service, if applicable.
 4. Evidence of liability insurance coverage must be provided to the Town
 5. **Sales tax language – Town Attorney will get back prior Planning Board meeting**
 6. The amount, type, and location of temporary signage, subject to the following:
 - a. The total amount of temporary signage shall not exceed 250 square feet in area. Such signage may be in a single sign or a combination of signs;
 - b. All temporary signs shall be located within the boundaries of the area in which the event will be held;
 - c. Temporary signs may not include sandwich boards, inflatable signs, and tethered balloons;
 - d. Temporary signs shall not be illuminated;

Attachment #3: Proposed Sec. 42-502(6) Temporary outdoor art market

- e. Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed by the permittee at the close of said event;
 - f. Temporary signs shall not be located in a manner that impedes the ingress and egress movement of pedestrians or life safety vehicles to and from all areas of the event.
- i. Any deviation from the terms and conditions of the permit, or the approved statements contained in the application, or any misstatement of fact made in such application shall be grounds for immediate revocation of the permit at any time.
- j. Any outdoor event or gathering that is commenced without a permit shall be canceled and all participants with their associated equipment shall be disbursed from the site.
- k. In no event shall the issuance of a permit under this section make or cause the town to be deemed a sponsor of the commercial event or gathering. Further, the town shall incur no liability for any injury to person or property arising out of any commercial event or gathering regulated by this section. Further, as a condition of any permit issued pursuant to this section, the applicant and sponsor shall hold the town harmless and indemnify the town for any liability incurred as the result of a valid judgment in a court of law. It is further provided as a condition of any permit issued hereunder that the applicant shall defend the town against any action filed against it arising out of any commercial event or gathering for which a permit is issued.

Attachment #4: Proposed Sec. 18-22.- Mobile food vendors

Sec. 18-22.- Mobile Food Vendor

1. Definition. *Mobile food vendor* means any person who dispenses food or beverages from a food vending vehicle, trailer, cart or similar equipment for immediate service and/or consumption.

2. Permitting.

- a. No person may operate as a mobile food vendor within the corporate limits without obtaining an annual mobile food vending permit under this chapter and any other licenses or permits that may be required by other applicable state or county law.
- b. Mobile food vendors shall provide documentation of approval from the North Carolina Department of Health or North Carolina Department of Agriculture and Consumer Services, a valid NC registration for all vehicles used in the operation of the truck or cart. A copy of their valid driver's license and proof of insurance. A valid health permit or most recent notice of inspection must be maintained for the duration of the food truck permit and shall be placed in a conspicuous location for public inspection.
- c. A separate mobile food vending license shall be required for each food vending vehicle operated by a mobile food vendor.
- d. Mobile food vendor shall supply written authorization from the property owner at any location at which the mobile food vendor operates.
- e. A violation of this Chapter may result in the suspension or revocation of a mobile food vending license and civil penalties.
- f. Mobile food vending permits shall expire on December 31 of the year for which the permit was issued.
- g. The mobile food vending permit fee shall be \$200
- h. Operating mobile food vendor without permit results in \$300 fine, and the operator ineligible to receive permit until fine is paid. Business operator hosting the unpermitted mobile food vendor shall be fined \$250 per unpermitted vendor.
- i. Violation of any of the standards below will result in the revocation of the mobile food vending permit for the remainder of the year. If the violation occurs after October 1, the mobile food vendor will be ineligible to obtain a permit for the following year.
- j. The Town shall issue a maximum of 5 annual permits each calendar year. Once that limit has been reached, no further permits shall be issued that year.

3. General standards.

- a. Mobile food vendors shall be permitted only on private property, on the premises of an existing commercial establishment located in nonresidential zoning districts. Mobile food vendors shall not be permitted to operate on vacant or unimproved parcels.
- b. Mobile food vendors shall be located at least 500 feet from the property boundary of an existing restaurant during the normal operating hours of the restaurant. This may be waived if the mobile food vendor provides documentation that the adjacent restaurant owner supports the mobile vendor to be located closer.
- c. Mobile food vendors shall not operate on any public right-of-way, town beaches, beach parking areas, or adjacent to beach accesses.
- d. Mobile food vendor applications shall demonstrate that the principal use on the parcel will continue to meet all minimum parking requirements during the periods for such sales. There shall be no impact on interior circulation.
- e. No liquid, grease, or solid wastes may be discharged from the mobile food vendor.
- f. Mobile food vendors shall comply with the regulations of the outdoor lighting ordinance, and noise ordinance.

Attachment #4: Proposed Sec. 18-22.- Mobile food vendors

- g. No signage shall be permitted to advertise the mobile food vendor, with the exception of one A-frame menu-board that may be set in front of the mobile food vendor.
- h. No mobile food vendor shall remain on site at one property for more than twelve (12) hours in a twenty-four (24)-hour period, unless the property is owned by the food truck or food cart operator and is the site of a brick-and-mortar restaurant owned by the same individual(s) who utilize the location as the truck or cart's commissary kitchen.

Attachment #5. Proposed Revisions to Sec. 18-11.- Outdoor events

Sec. 18-11. Outdoor events.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Applicant means any person, group or organization that sponsors, organizes or arranges an outdoor event.

Outdoor event means any event or gathering that occurs outdoors and that:

- (1) Represents a use or uses of land, buildings and structures not intended to be of a permanent duration;
 - (2) Is intended to or likely to attract substantial crowds, participants and/or spectators;
 - (3) Is advertised and/or open to the general public;
 - (4) Is held to promote or is sponsored by a commercial business; and
 - (5) **Is unlike the customary or usual activities generally associated with the principal use of the property where the outdoor event or gathering is to be located.**
- (b) *Permit requirements.* No outdoor event shall be held, commenced or advertised until such time as a permit is applied for and issued in accordance with this section. A permit issued under this section shall be valid for a period of ~~two~~ **seven** consecutive days. All outdoor events shall be contained either within the applicant's property or within property upon which the applicant has written permission from the owner to use. If live music or electric sound amplification is being proposed in conjunction with the outdoor event, the applicant must comply with section 18-2. ~~Outdoor event permits are limited to six permits per parcel in a twelve month period.~~
- (c) *Permit application.* Applicants, if required under subsection (b) of this section, shall submit a permit application to the town planning department. Such application shall be presented not less than 15 days prior to the scheduled event and shall contain the following information:
- (1) The name and address of the applicant;
 - (2) The address of the location of the outdoor event;
 - (3) The days and hours for which the permit is desired;
 - (4) A designation, by reference to identifiable landmarks along with a detailed map, drawn to a scale of at least one inch equals 50 feet describing the approximate area in which such event will be contained, such area to include that required for parking, the event itself, concession areas and any other related activities;
 - (5) An estimate of the anticipated attendance of both participants and spectators;
 - (6) The number of restroom facilities, including handicapped restroom facilities. This number should correspond with the estimated total attendance;
 - (7) In summary format, the general plans of the applicant and sponsor concerning the following matters:
 - a. Crowd control procedures;
 - b. Traffic and parking control;
 - c. The impact of the event on existing parking areas, streets, highways and the burden placed upon public agencies for traffic and crowd security and control;
 - d. The effects of such event on fire control and fire prevention, including safety precautions;
 - e. Provisions for emergency medical services and first aid;

Attachment #5. Proposed Revisions to Sec. 18-11.- Outdoor events

- f. Provisions for collection and disposal of solid wastes, including trash and garbage and sanitary provisions, including human waste collection and disposal and the providing of sanitary facilities;
 - g. Provisions for returning the site to its pre-event conditions, including, but not limited to, the removal of all debris and trash immediately after the event;
- (8) The number and types of concessions;
- (9) The amount, type, and location of temporary signage, subject to the following:
- a. The total amount of temporary signage shall not exceed 250 square feet in area. Such signage may be in a single sign or a combination of signs;
 - b. All temporary signs shall be located within the boundaries of the area in which the event will be held;
 - c. Temporary signs may not include sandwich boards, inflatable signs, and tethered balloons;
 - d. Temporary signs shall not be illuminated;
 - e. Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed by the permittee at the close of said event;
 - f. Temporary signs shall not be located in a manner that impedes the ingress and egress movement of pedestrians or life safety vehicles to and from all areas of the event.
- (d) *Permit letting procedures.*
- (1) In determining whether or not to issue such permit, the town manager, *or designee*, shall consider those items required to be presented in the permit and shall also consider:
- a. Conflicts and possible conflicts with other commercial events;
 - b. The burden placed by the commercial event on public agencies;
 - c. The adequacy of security, traffic control and crowd control provisions;
 - d. The health and safety conditions for those attending the commercial event; and
 - e. The capacity of the area designated for the event to contain the expected number of vehicles, participants, and spectators.
- ~~(2)~~ ~~If needed, the town manager shall, upon receipt of an application for a permit, confer with the applicant to determine any other matters deemed relevant by the town manager and to obtain more specific information concerning any item presented in the permit.~~
- ~~(3)~~(2) The town manager, *or designee*, shall issue a permit when ~~he finds~~ *it is found* that the proposed activity:
- a. Will not unreasonably interfere with the rights of the general public in having free access along public ways and streets;
 - b. Will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation and that adequate public services are available for crowd and traffic security and control;
 - c. Is not reasonably anticipated to incite violence, crime or disorderly conduct;
 - d. Will not entail extraordinary or burdensome expense or operations on the fire and police departments and other public agencies; and
 - e. Will not interfere with other scheduled events.
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Attachment #5. Proposed Revisions to Sec. 18-11.- Outdoor events

- (4) In addition, the town manager, or designee, must find that the provisions and plans for crowd and traffic control and security, health and sanitation and all matters required to be included in the permit application are adequate and that the applicant and sponsor have the reasonable capability of carrying out such plans and preparations.
- (e) *Permit form.* The town manager, or designee, after due consideration of the matters contained in this section, shall either grant or deny such permit within five working days after submission of an application. The granting of a permit shall be by letter to the applicant setting out all conditions of the permit and incorporating any provisions or conditions in addition to statements and presentations in the permit application. Any deviation from the terms and conditions of the permit, or the approved statements contained in the application, or any misstatement of fact made in such application shall be grounds for immediate revocation of the permit at any time by the town manager.
- (f) *Permit denial.* In the event the town manager, or designee, denies such permit, or subsequently revokes the permit, the applicant shall have seven days in which to appeal such denial or revocation to the town council. Such appeal shall be in writing, stating the grounds thereof and shall be addressed to the mayor and town council with a copy to the town manager. The town council shall hear the appeal at the next regularly scheduled meeting. The decision of the town council shall be final.
- (g) *Permit not grounds for other violations.* The granting of an application is not grounds for the violation of any other ordinance of the town and the applicant shall take whatever steps are necessary to comply with all ordinances of the town, including section 18-2 regulating noise, section 18-10 regulating parades and demonstrations, and article IV of chapter 36 regulation parades. As a condition of approval, the applicant shall notify the town two hours prior to the commercial event that the site is ready for inspection. The town may inspect the site prior to, during, and after the commercial event to verify compliance with this section, the issued permit and all applicable town regulations. Failure to make provisions for complying with this Code shall be grounds for revocation under this section.
- (h) *Nonpermitted events.* Any outdoor event that is commenced without a permit shall be canceled and all participants with their associated equipment shall be disbursed from the site. ~~It is expected that applicants will act in compliance with this section on his own initiative; however, the town manager, chief of police or their representatives may order cancellations of any nonpermitted event if the event is required to have a permit based on the standards of this section.~~
- (i) *Disclaimer of liability.* In no event shall the issuance of a permit under this section make or cause the town to be deemed a sponsor of the commercial event. Further, the town shall incur no liability for any injury to person or property arising out of any commercial event regulated by this section. Further, as a condition of any permit issued pursuant to this section, the applicant and sponsor shall hold the town harmless and indemnify the town for any liability incurred as the result of a valid judgment in a court of law. It is further provided as a condition of any permit issued hereunder that the applicant shall defend the town against any action filed against it arising out of any commercial event-for which a permit is issued.
- (j) *No permit required.* If a permit is required and obtained pursuant to section 18-10, no additional permitting will be required under this section.

