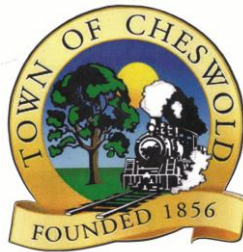


DRAFT

Town of Cheswold
1856



State of Delaware
1787

TITLE #: 43
Ordinance #: 05-03-21-063

Date: 05-03-2021

ORDINANCE for Special Events and Other Assemblies

DESCRIPTION: This ordinance shall be known as the “Town of Cheswold Special Event and Other Assembly Ordinance”, as it establishes standards of behavior for special events and other outdoor assemblies within the Town of Cheswold. It shall sometimes and herein be referred to as the Special Event Ordinance and shall apply to and include the entire corporate limits of the Town of Cheswold, Kent County – State of Delaware.

Section 1. PURPOSE

- A. This Ordinance is enacted to protect, preserve and promote the health, safety, welfare, peace and quiet **of** the citizens of the Town of Cheswold **by** providing and regulating the time, place and manner of special events and demonstrations to accommodate competing demands for the public use of public promenades, sidewalks, streets, and other public places.

Regulation is necessary to preserve the public peace and safety; to permit free expression on issues of public concern; to protect persons and property; to maintain acceptable conditions of traffic flow upon streets and sidewalks; and to prevent, control or eliminate any potential illegal, injurious or dangerous effects of this lawful activity.

- B. Through the passage of this Ordinance, the Mayor and Town Council do not seek through its enforcement, to deny or abridge the rights of any person of the right to assemble; or of the right of free speech or the opportunity for communication of thought and discussion of public questions in public places within the entire corporate limits of the Town of Cheswold, Kent County – State of Delaware.

Section 2. Special Events; Permit Required

A. Events for which a Permit is Required.

No person or entity shall conduct any of the following events or activities unless a permit has been granted by the Town:

1. Parades, processions, marathons, bicycle races, and other events utilizing sidewalks or vehicular travel portion of the town streets and highways.

2. Motion picture, video or broadcast television production, other than news media, involving the staging of vehicles, equipment, props or personnel on public property, including buildings, public promenades, sidewalks or streets, or requiring the use of Town equipment or services. This subsection SHALL NOT apply to an individual taking videos or photographs of events which occur without staging.
3. Activities or events requiring a variance from regulations for parks promulgated by the Town Administrator or Land Use Administrator.
4. Any demonstration or protest utilizing the vehicular travel of any town street or highway.

B. Application Contents and Fees:

An application for any permit required by this section shall be made to the Code Enforcement Office or designee, accompanied by a non-refundable processing fee as provided in Section 3 of this ordinance.

The application shall be submitted not less than forty-five (45) days nor more than six (6) months prior to the date of the proposed activity. An application for a major event (one involving the closure of more than three (3) blocks or which will last more than two (2) days) shall be filed not less than ninety (90) days nor more than one (1) year before the first date of the proposed activity. The application shall contain the following information, utilizing a form provided by the Town of Cheswold:

1. Description of the proposed activity;
2. Date, time and location/route of proposed activity and the anticipated number of participants and spectators;
3. Provisions for sanitation facilities, crowd, noise and traffic control, ADA compliance, parking and loudspeaker placement;
4. Food and beverages to be sold or distributed;
5. The designation of an individual or individuals who shall be responsible for ensuring compliance with the provisions of this section and the conditions of the permit and who shall be present at all times during the event;
6. Proposed equipment, vehicles, staging, bleachers, shelters and electricity requirements;
7. If revenue is anticipated to be generated by the activity, the individuals or entity that will benefit thereof;
8. Such additional information or assurances as the Town Administrator and/or Public Works may require.

C. Application Submission and Processing Requirements:

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

D. Permit Approval Process:

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

3. Prior to the final denial of any application, the applicant shall be apprised of the reason therefore and shall be entitled to a hearing before the **Town Council**.

E. Permit Requirements:

The Town Administrator or designee may impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace and order. Such conditions may include, but are not limited to the following:

1. The payment of a reasonable fee for the use or allocation of Town property, equipment and personnel not exceeding the actual costs incurred by the Town in connection with the proposed activity; and the posting of a performance bond or other surety securing payment of such fee.
2. The provision of adequate crowd and traffic control, security, fire protection, food handling, sale and consumption of alcohol, waste and refuse disposal, and noise restrictions.

F. Revocations/Suspensions:

The Town Administrator or designee, shall be authorized to revoke or suspend any permit previously granted:

1. For any material violation of any provisions of this section or of any condition of the permit;
2. For any material misrepresentation, intentional or otherwise, made in connection with the application;
3. When weather conditions render the subject activity unsafe; and
4. When otherwise reasonably required in the interest of public health, safety and welfare or environmental considerations. In the event a permit is revoked or suspended, the permittee shall immediately discontinue, or cause to be discontinued, the activity for which the permit was granted, but shall thereafter be entitled to a hearing concerning the revocation or suspension decision as provided by subsection (d)(3) above.

G. Permit Duration:

Any permit granted under the provisions of this section shall remain in effect for the duration of the proposed activity, except as provided for in the preceding subsection.

H. Other Permit Requirements:

The granting of any permit required by this section shall not eliminate any requirement for any business license, any other permit(s) which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations, or compliance with any other applicable federal, state or local statutes, ordinances, rules or regulations.

I. Administration of Permit:

The Town Administrator may designate one (1) or more officers or employees of the Town to administer the provisions of this section. The Town Administrator is authorized to develop administrative directives or standard operating procedures to implement this article.

J. Permit Violation:

Any person who shall violate any provision of this section shall be **guilty of not obtaining a Special Events Permit as required by Section A of this Ordinance and they shall be subject to a fine of the cost of the Special Event type fee plus \$50.00 cumulatively for all subsequent additional offenses associated with and to the same event.**

K. SPECIAL EVENT PROCESSING FEE

1. A non-refundable processing fee, as follows, shall be submitted with a completed application for a special event:
 - a. Festival, art show or event held for two (2) or more consecutive days..... \$150.00
 - b. Commercial motion picture or television production per day....\$100.00
 - c. Activities or events requiring a variance from park regulations.... \$75.00
 - d. **Parade...\$200.00**
 - e. Private events at Public Places (persons in excess of 25).....\$75.00
2. **All Municipal, State and/or Federal sponsored events are exempt**

Section 4. PICKETING AND DEMONSTRATIONS

A. Definition - The terms picket, picketer(s) and picketing as used herein are deemed to include "demonstrators," persons participating in vigils and any action primarily promoting or objecting to a Municipal; State; or Federal policy or social/racial/gender construct, upon those portions of the public ways not used primarily for vehicular parking and moving traffic and not constituting a parade.

B. Picketing permitted; Notice of Intent - Receipt Required

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

1. No picketing shall be conducted on the public ways of this **Town** and no person shall participate in the same unless notice of intent to picket has been given to the Chief of Police or the Chief's designated representative, and unless a receipt of such notice has been issued.
2. A group of fewer than ten (10) persons may give written notice of intent to picket but is not required to do so. A group of ten (10) to twenty-four (24) persons shall give notice in writing and the notice given shall contain the following information:
 - a. The name, if any, of the organization or group sponsoring or proposing to picket;
 - b. The location or locations in the Town where the pickets propose to assemble and demonstrate;
 - c. The date or dates on which the picketing is to occur and the approximate times;
 - d. The name of the person and organization giving notice of intent to picket, as well as contact information (such as a working telephone number or e-mail);
 - e. Whether or not persons below the age of eighteen (18) years are expected to participate; and
 - f. The person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times. Such person shall be required to be present at all times during the picketing or demonstration event.
3. Upon receiving a notice set out, the Town Administrator or designee shall immediately issue a picketing registration. The registration shall contain all information stated in the notice. Notice shall be given by the registration holder to the Town Administrator or designee immediately upon the cessation of such picketing for a period of twenty-four (24) hours or more. Before resumption of picketing interrupted for any such period, a new notice shall be given and a new registration issued.

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

C. Permit Approval Process

1. The permit shall be granted by the Town Administrator if the following conditions are met:
 - a. Any proposed use of public property, right-of-way, or facilities will have a public benefit (and not be primarily for one (1) group or organization's private use) and not unreasonably interfere with the normal use of the property, right-of-way or facility by the town or the general public;
 - b. The proposed activity does not present a safety or health risk to participants, spectators or the public, or an environmental hazard;
 - c. The proposed activity is compatible with the surrounding area or neighborhood, in consideration of anticipated noise, traffic, crowd capacity and other identifiable factors; and
 - d. The applicant has provided proof of liability insurance underwritten by insurers acceptable to the town, indemnifying the town against any perils, suits, claims and losses which may arise in connection with the proposed activity. Such coverage shall be in amounts consistent with a standard schedule approved by the town manager, based upon risks associated with each type of event, in consideration of anticipated attendance.
2. When the grounds for anticipated denial of an application can be corrected by altering the date, time, duration, route or location of the event, the town manager or the manager's designee may conditionally approve the application, subject to the applicant's acceptance of such conditions. Any conditions so imposed shall provide only for such modification of the applicant's proposal as may be necessary to achieve compliance with this section.
3. Prior to the final denial of any application, the applicant shall be apprised of the reason therefore and shall be entitled to a hearing before the Town Council.

4. Exception:

- a. The requirements for insurance and for payment of fees for the use or allocation of Town property, equipment and personnel authorized by this section shall not be imposed for any non-commercial gathering, parade or procession held for purposes of expressive activity, upon demonstration, in writing, that the applicant is financially unable to pay the costs of such fees and services and that the right to engage in expressive activity would be unreasonably curtailed by failure to waive such requirements. However, insurance may be required for collateral activities such as food service and the use of structures and equipment that present a demonstrable risk or hazard.
- b. Upon demonstration that the enforcement of the provisions of Section 4, (*Picketing and Demonstrations*), would unreasonably restrict the right of free expression, the Town Administrator shall waive or reduce the time prescribed for advance notice of an event and impose only such provisions as will not unreasonably restrict the element of timeliness of the expressive activity.
- c. For purposes of this Ordinance, expressive activity shall include any picketing or demonstration utilizing Town streets or parks, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment of the Constitution of the United States.
- d. At times, demonstrations may occur spontaneously in response to newsworthy or other high profile events. Such an event may occur without a permit if:
 - (i) it is an otherwise lawful assembly conducted in accordance with Sections D, (*Standards of Conduct*), and Section E, (*Interference with Picket Prohibited; Police Authority to Disperse Crowds*);
 - (ii) it will not unreasonably interfere with other previously permitted or scheduled events;
 - (iii) it does not block public streets or threaten public safety.

Demonstrations that develop in response to a newsworthy event more than forty-eight (48) hours after the event will not qualify as spontaneous demonstrations, even without prior planning or announcement, and sponsors of events outside this time period must apply for and receive a permit in accordance with this Ordinance.

D. Standards of Conduct

- 1. Picketing shall be conducted only on portions of the public ways not used primarily for vehicular parking or moving traffic.

2. Picketers may carry written or printed placards or signs; however, such written or printed placards or signs shall not at any time nor in any way:
 - (i) be detached from any supporting poles or rods or;
 - (ii) obstruct, interfere with, or block the sidewalk or public way.

Pickets may not carry:

- (i) clubs, sticks or similar items
- (ii) wear masks as prohibited as follows:
 - It shall be unlawful for any person over 16 years of age to, with the intent to conceal his identity, wear any mask, hood or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, to be or appear in any public place, or upon any private property in this Town without first having obtained from the
 - owner or tenant thereof consent to do so in writing. However, the provisions of this section shall not apply to persons:
 - wearing traditional holiday costumes;
 - engaged in professions, trades, employment or other activities and wearing protective masks which are deemed necessary for the physical safety of the wearer or other persons;
 - engaged in any bona fide theatrical production or masquerade ball;
 - wearing a mask, hood or other device for bona fide medical reasons upon:
 - the advice of a licensed physician or osteopath and carrying on his person an affidavit from the physician or osteopath specifying the medical necessity for wearing the device and the date on which the wearing of the device will no longer be necessary and providing a brief description of the device,
 - the declaration of a disaster or state of emergency by the Governor in response to a public health emergency where the emergency declaration expressly waives this section, defines the mask appropriate for the emergency, and provides for the duration of the waiver.
- (iii) carry shields or;

Candles are permitted but torches or any other burning substances attached to a stick or rod are not.

EXCEPTION: Masks must be worn during Federal, State or Municipal mandated health required time periods.

3. If picketers promoting different objectives, causes, actions or policies desire to use a sidewalk that is already used for picketing, the Chief of Police or the

Chief's designated agent shall allot a number of picketers promoting each objective to use such sidewalk on an equitable basis, proportionate to the number of objectives being promoted.

4. Picketers shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.
5. No person observing, engaging in, or assisting in picketing shall bring any vicious animal to and/or allow it to remain in the immediate picketing area.
6. It shall be unlawful for a group of ten (10) or more persons to picket without filing a notice as required herein.

E. Interference with Picket Prohibited; Police Authority to Disperse Crowds.

1. Picketers or demonstrators promoting different objectives are subject to the restrictions in preceding Section D-2 (*Standards of Conduct*). It shall be unlawful for any person to physically interfere with picketers in the use of the sidewalk or to address profane, indecent, abusive, or threatening language to or at those picketers which would tend to provoke the picketers or others to a breach of the peace.
2. Town police officers may, in the event of the assemblage of persons in such numbers as to tend to intimidate picketers pursuing their lawful objective through numbers alone or through use of inflammatory words, threats of violence or violence, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself or herself from the place of such assemblage when so directed by the police. To preserve public safety, peace or order, the Chief of Police, or the Chief's designee, may also physically separate hostile groups of persons promoting different causes through the use of barricades or similar devices as required to keep hostile groups apart from one (1) another.
3. Whenever the free passage of any street or sidewalk shall be obstructed by a crowd whether or not the crowd assembles as a result of or in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.
4. The Town Administrator is authorized to develop administrative directives or standard operating procedures to implement this article.

F. Penalty for Violations

The provisions of this division are mandatory, and not merely directory, and failure to comply with its provisions is hereby declared to be unlawful and punishable **as defined in Section B and D of this Ordinance and may be subject to fines of \$50 to \$1,000 and/or also arrest in accordance with Local, State and Federal statutes.**

Section 5. NOTES

- 5.1 The term, functions, responsibilities and authorities of the Town Administrator shall be interchangeable with the term, functions, responsibilities and authorities of a Town Manager.
- 5.2 Any assignments, procedures, or processes assigned to the Code Enforcement Officer in this Ordinance are enforceable through the office of the Director of Public Works and as he/she shall so assign.

Section 6. EFFECTIVE DATE

- 6.1 This Ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect immediately and after the date of its final passage and adoption.

Section 7.

PASSAGE of ORDINANCE

Whereas, the Town Council of the Town of Cheswold, approved Resolution _____, on _____ and then properly posted and held a Public Hearing on _____ 2021, at 5:00 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, to receive public comment on this Ordinance; and

Whereas, there was not any negative or adverse public comments made against the said Ordinance, at the above mentioned Public Hearing; and

Whereas, the Town Council at their regularly scheduled Town Council meeting, on _____ held at 5:30 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, voted unanimously to approve this Ordinance; and

I, Santo Feronea, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by an affirmative majority vote of all elected members of the Town Council of Cheswold at a regularly scheduled Town Council Meeting, held on, Monday, _____, at which a quorum was present and voting throughout, and that the same is still in force and effect.

CERTIFIED: _____
Santo Ferona - Mayor

Date:

ATTEST: _____
Theon E. Callender - Secretary/Treasurer

Date:

Agreed: _____
Vice-Mayor Michael Wysong

Date:

Agreed: _____
Councilperson Judith Johnson

Date:

Agreed: _____
Councilperson Mark Moxley

Date:

Agreed: _____
Councilperson Maxwell A. Amoako

Date:

NOTARIZED: _____
Shadina Jones – Town Clerk

Date:

Primary Sponsor: Police Chief Christopher Workman
Co-Sponsor: Secretary/Treasurer Theon E. Callender
Code Enforcement Officer Michael E. Callender

Introduction: September 7, 2021

READINGS & REVIEWS:

1 st Council Reading	September 7, 2021
2 nd Council Reading/1 st Public Reading	October 4, 2021
3 rd Council Reading/2 nd Public Reading	November 1, 2021
Forwarded for Attorney Review	August 10, 2022
Attorney Review	August 15, 2022
Council/Public Review	
Public Hearing	

REVISION LOG

<u>Revision Date</u>	<u>REVISION REASON</u>