

Chapter 327, RIGHTS-OF-WAY, USE OF

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Auctions and auctioneers -- See Ch. 184.

Curfew -- See Ch. 211.

Loitering -- See Ch. 279.

Parks and recreation -- See Ch. 301.

Peddling and soliciting -- See Ch. 307.

Public assembly -- See Ch. 318.

Transient retail merchants -- See Ch. 331, Art. I.

Vehicles and traffic -- See Ch. 400.

ARTICLE I, Mass Gatherings [Adopted 10-5-1970 (Ch. 14, § 14-3, of the 1970 Code)]

§ 327-1. Assembly of crowds restricted.

It shall be unlawful for persons unnecessarily to assemble in or upon any public highway or part thereof, in such numbers as to obstruct traffic, and no public meeting shall be held and no crowd shall be assembled within any congested district of the City within 100 feet of a street intersection.

ARTICLE II, Outdoor Cafe Permits [Adopted 2-2-1987 by Ord. No. 12-87 (Ch. 12, § 12-6, of the 1970 Code); amended in its entirety 5-1-1995 by Ord. No. 95-130; Amended 5-18-00 by Ord. no 00-46; Amended 6-06-2012 by Ord. No 12-39; Amended 02-07-2018 by Ord. No 18-18]

§ 327-2.A. Definitions.

For the purposes of this section, the below terms shall be defined as follows:

OUTDOOR CAFÉ – An accessory seating area for a restaurant or tavern located on the public right of way, requiring an Outdoor Café Permit from the City of Binghamton.

PUBLIC PEDESTRIAN AREAS – Those areas accessible by pedestrian traffic which are not immediately adjacent to a street or highway, and which are exempt from vehicular traffic.

SIDEWALKS – Any walkway along the margin of a street or highway, designed and prepared for the use of pedestrians, encompassing the area between the front line of any abutting property and the curb or, where there is not curb, the line where the street begins.

§ 327-2.B. General Description.

An Outdoor Café Permit as described herein shall grant the holder thereof the ability to use public property for café purposes consistent with these rules and regulations. The City shall issue such permits only to those ground floor restaurants or taverns which are contiguous to and have a formal ingress or egress by door or passageway to public property. Such public property may consist of public pedestrian areas or sidewalks.

§ 327-2.C. Hours and Months of Operations. [Amended 12-18-2013 by Ord. No. 13-103; Amended 02-07-2018 by Ord. No 18-18]

Approved Outdoor Café Permits shall be valid from March 1st through November 30th during the year in which the permit was issued; the City reserves the right to exclude any particular dates from the outdoor café seasons in the interest of public safety. Such permit shall authorize the permit holder to operate an Outdoor Café during (a) the permit holder's regular business hours, but not before the hour of 7:00 A.M. or past the hour of 11:00 P.M. Sunday through Saturday. Outdoor Café operations must cease at the times indicated herein. Operation of an Outdoor Café outside of the permissible hours shall constitute a violation of this Ordinance, and shall constitute grounds for the revocation of an Outdoor Café permit, in accordance with § 327-2.L.

§ 327-2.D. Area Requirements.

The maximum width of the space in which a restaurant or tavern may operate an Outdoor Café shall be no larger than the width of the establishment frontage to which it is immediately abutting. In no case shall the width of an Outdoor Café impede any ingress or egress from an abutting establishment or infringe upon the space potentially available to another restaurant or tavern for use as an Outdoor Café. The maximum depth of space for any Outdoor Café area is outlined below:

1. Public Pedestrian Areas. In public pedestrian areas, the maximum depth of space for any Outdoor Café area shall be up to half the distance of the public pedestrian area minus five (5) feet, as measured perpendicular from the building wall to which the Outdoor Café is immediately abutting to the edge of the public pedestrian area.
2. Sidewalks. On sidewalks, the maximum depth of space shall be the entire width of the sidewalk, minus five (5) feet, as measured perpendicular from the building wall to which the Outdoor Café is immediately abutting to (a) the edge of the sidewalk or (b) any permanent obstruction including, but not limited to, trees, planters, fire hydrants, parking meters, and/or utility boxes, whichever is closest to the Outdoor Café.

§ 327-2.E. Outdoor Café Permit Fees.

The cost of an Outdoor Café Permit shall include the site plan review fee, the annual rental fee, and the security deposit, as described below:

1. Site Plan Review Fee. The site plan review fee shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The site plan review fee shall be paid together with an Outdoor Café Permit application, and shall be nonrefundable, regardless of the site plan review determination. As described in § 327-2.K, approved Outdoor Café Permits may be renewed on an annual basis for up to four (4) additional calendar years, without obtaining additional site plan reviews, provided that the Outdoor Café as described in the original permit remains unchanged. No site plan review fee shall be required during each annual renewal, provided that no additional site plan review is required during this four (4) year period.
2. Annual Rental Fee. The annual rental fee shall be based on the total square footage of the public property utilized, and shall be established from time to time by Council of the City of Binghamton (See Exhibit J). The annual rental shall be paid upon issuance of an Outdoor Café Permit fee and is nonrefundable. Should the applicant wish to renew the Outdoor Café Permit, the annual rental fee shall be paid upon each annual renewal.
3. Security Deposit. The security deposit shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The security deposit shall be paid upon issuance of an Outdoor Café Permit. IN the event that the City must provide services for the cleaning, maintenance, and/or repair of the area rented by the permit holder, the cost of such services shall be billed to the permit holder. Should the permit holder fail to submit payment for such services, the total cost shall be deducted from the security deposit. Any remaining portion of the security deposit shall be returned to the permit applicant within thirty (30) days of expiration of the Outdoor Café Permit, or within thirty (30) days of the City Clerk's receipt in writing that the permit applicant no longer wishes to operate an Outdoor Café.

§ 327-2.F. Permit Application. [Amended 9-05-2012 by Ord. No 12-60]

At least thirty (30) days prior to the requested start date of the Outdoor Café Permit; the permit applicant shall submit an application for an Outdoor Café Permit to the Department of Planning, Housing and Community Development (hereon known as Planning Department) containing the following:

1. Applicant name, mailing address, telephone number(s), and email address.
2. Business name, physical address, telephone number(s), and email address.

3. Business hours of operation.
4. Proposed Outdoor Café hours of operation.
5. Proposed site plan, as described in §327-2.J.
6. All appropriate permits issued by the Broome County Department of Health.
7. Payment of the site plan review fee, See Exhibit J.

§327-2.G. Permit Approval Procedure [Amended 02-07-2018 by Ord. No 18-18].

Upon receipt of the completed Outdoor Café Permit application, along with the site plan review fee and all associated documentation, the Planning Department will complete an initial review of the site plan. If the proposed Outdoor Café area is located within a locally designated historic district, or if it involves a designated local landmark property, the Planning Department shall refer such site plan to the Commission on Architecture and Urban Design (“CAUD”) for review and approval. Upon receipt of such recommendations, the Planning Department shall forward the Outdoor Café Permit application and such recommendations to the Police Department, Fire Bureau, Department of Public Works, Department of Parks and Recreation, Office of Building & Construction/Code Enforcement, Corporation Counsel, and City Clerk. All such departments shall submit their findings and determinations to the Planning Department within five (5) business days.

If the permit application is approved by the Planning Department, **the applicant will submit the following to the City Clerk’s Office:**

1. Certificate of Approval from the Planning Department and/or CAUD.
2. Proof of general liability insurance coverage in an amount not less than one million dollars (\$1,000,000), proof of property damage insurance in an amount not less than fifty thousand dollars (\$50,000), and, should the applicant intend to sell alcohol in the Outdoor Café area, proof of liquor liability insurance coverage in the amount not less than one million dollars (\$1,000,000). An endorsement naming the City of Binghamton as an additional insured on a primary non-contributory basis, and such other endorsements as may be required by the Corporation Counsel.
3. Payment of the security deposit and annual rental fee, See Exhibit J.
4. If the applicant intends to serve alcohol in the Outdoor Café area, the applicant must first receive approval from the New York State Liquor Authority (“NYSLA”). Upon receipt of items 1, 2, and 3 above, the City Clerk’s Office will provide the applicant with a Landlord Authorization and Open Container Approval letter to be submitted to the NYSLA. **The applicant cannot operate the Outdoor Café until the City Clerk’s Office receives a copy of the approval from the NYSLA and issues an Outdoor Café Permit.**
5. Upon compliance with the above conditions, the City Clerk will issue an Outdoor Café Permit. If the application is denied, the City Clerk will advise the applicant of its right to appeal. If the applicant does not appeal, the City Clerk will reimburse the security deposit and annual rental fee to the applicant.

A permit application may be denied if the Planning Department and/or City Clerk determines that the issuance of such permit would cause public health and/or safety concerns, prior non-compliance, if the Outdoor Café would conflict with a previously scheduled event, or if the permit applicant fails to comply with the regulations described herein.

§327-2.H. Denial Appeal Process.

Should a permit be denied for any reason, the applicant shall have the ability to appeal the denial by submitting such appeal in writing to the Council of the City of Binghamton within thirty (30) days from receipt of the denial. If the appeal is successful, the application will be remanded to the Planning Department and/or CAUD, for modifications, if any; or the City Clerk will issue an Outdoor Café Permit in accordance with City Council’s decision. If the appeal is unsuccessful, the City Clerk will reimburse the security deposit

and annual rental fee to the applicant. A denial can be appealed to the Broome County Supreme Court in a CPLR Article 78 proceeding commenced within thirty (30) days of the decision.

§327-2.I. Site Plan Design Standards [Amended 02-07-2018 by Ord. No 18-18].

No Outdoor Café Permit shall be issued until a site plan review has been completed and approved. The Outdoor Café and its property shall not be set up in such a way as to cause damage to City property. The City reserves the right to approve, approve with modifications or deny any proposed site plan. The site plan may include but is not limited to the following (please also see the Outdoor Café Design Guidelines manual kept in the Planning Department):

1. The shape and dimensions of the area in question.
2. The location and size of all buildings or structures within twenty-five (25) feet of the area in question.
3. The location and type of any screening, barriers, and/or landscaping. Outdoor Cafes shall be demarcated on all sides not immediately abutting the building wall by barriers, and such Site Plan shall delineate the Outdoor Café's egress for safety evacuation.
4. Type of furniture and its arrangement, materials and colors used. With the exception of table umbrellas or existing awnings, Outdoor Cafes shall be open to the sky.
5. Character of surroundings and harmony of the Outdoor Café layout to these surroundings.
6. Photographs of proposed café area.

§ 327-2.J. Terms and Conditions [Amended 02-07-2018 by Ord. No 18-18].

All Outdoor Café Permits issued pursuant to this section shall be subject to the following conditions, rules and regulations:

1. The permit holder shall maintain responsibility for the Outdoor Café and provide sufficient personnel for the proper supervision and operation of the Café, and shall be responsible for the cleaning, maintenance and/or repair of said Outdoor Café area.
 - (i) Maintenance shall include cleaning the Outdoor Café area of all rubbish, debris, stains, and/or residue resulting from the operation of the Outdoor Café, leaving the site in a clean condition at the end of each day during which the Outdoor Café is in operation. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of Outdoor Café operations.
 - (ii) Should the permit holder fail to clean, maintain, and/or repair the Outdoor Café area to the satisfaction of the City of Binghamton, the permit holder shall be notified by the City of Binghamton in writing of such failure to comply with the regulations described herein, and shall be given a reasonable time period to restore the Outdoor Café area to an acceptable condition, given the nature of the violation.
 - (iii) Should the permit holder fail to restore the Outdoor Café area to an acceptable condition, the City shall provide services for the cleaning, maintenance, and/or repair of the Outdoor Café area. The cost of such services shall be billed to the permit holder.
 - (iv) Should the permit holder fail to submit payment for those cleaning, maintenance, and/or repair services provided by the City of Binghamton, such funds shall be deducted from the security deposit, as outlined in §327-2.F.
 - (v) Notwithstanding any provision above, should the City be required to provide services for cleaning, maintenance, and/or repair of the Outdoor Café area, or if the permit holder fails

to make any required payment in a timely manner, the Outdoor Café Permit, in accordance with §327-2.L. *Outdoor Café Permit* maybe subject to immediate revocation by the City, and the permit holder may be ineligible to receive future Outdoor Café Permits.

2. If the security deposit is exhausted due to expenses incurred by the City for the cleaning, maintenance, and/or repair of the Outdoor Café area, the City Clerk may require the permit holder to provide an additional security deposit in an amount which may exceed the original security deposit. The permit holder will remain liable and shall reimburse the City for any and all damages or injury to any City property that may arise from the operation of the Outdoor Café.
3. The permit holder shall hold harmless and indemnify the City from any and all claims, actions, damages, or liability arising from the operation of the Outdoor Café of every name and nature which may arise or be incurred by the City as a consequence of the giving of such permission, or as the result of the conduct of such Outdoor Café patrons, or as a result of the cleaning of rubbish, debris, stains, and/or residue resulting from said Outdoor Café.
4. The permit holder shall comply with all regulations set forth by the Police Department, Fire Bureau, or other public safety personnel as they pertain to the conduct of the patrons of said Outdoor Café.
5. All approved barriers and furniture may remain in the designated Outdoor Café area during the permitted months of operation. Upon expiration of the Outdoor Café Permit, all barriers and furniture must be removed, and the space must be made open and available for public use.
6. Outdoor Café Permits are non-transferrable.
7. Permit Holder shall not be allowed access to or use of City electricity, electrical equipment, and/or water service in connection with the operation of an Outdoor Café.
8. The permit holder is responsible for ensuring that the business and its patrons adhere to all noise and public conduct regulations outlined in the Code of the City of Binghamton.
9. The City shall not be responsible for the theft, loss, or damage to any furniture or other Outdoor Café property.
10. No loudspeakers, public-address system, or similar amplification device shall be used, nor shall any live music be played within any Outdoor Café area without the permit holder having first obtained a Noise Permit from the City, as outlined in §292-9.
11. Please be aware of Section §327-2.L: Permit Modification, Revocations, and Inspections.

§327-2.K. Renewal of Permits.

An Outdoor Café Permit may be renewed on an annual basis provided the permit holder files an application and pays the annual rental fee and security deposit for each year of operation. A renewal for up to four (4) additional years does not require a new site plan review, provided the Outdoor Café as described in the original permit remains unchanged. If any portion of the Outdoor Café changes in the years following the initial approved site plan review, a new site plan review will be required and the permit holder must pay the site plan review fee.

§327-2.L. Permit Modification, Revocations and Inspections [Amended 02-07-2018 by Ord. No 18-18].

The Planning Department and/or the City Clerk may modify an Outdoor Café Permit and/or site plan should it become necessary or proper to do so in the interest of public health and/or safety or to preserve the character of any neighborhood of the City. The Planning Department and/or the City Clerk may revoke an Outdoor Café Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State. Should the permit holder fail to

comply with the provisions of its patrons, the permit holder may be ineligible to receive future Outdoor Café Permits. The City reserves the right to conduct inspections of the Outdoor Café and the Outdoor Café area at any and all times in order to ensure that all regulations as described herein are being met by the permit holder.

If the permit holder is in violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State, the Planning Department and/or the City Clerk will give the permit holder written notice of the violation and ten (10) days to cure same.. Any failure to make a required payment must be cured within five (5) days of written demand for payment to the permit holder. Any failure to submit an application or complete the application process will result in a written notice of violation from the City Code Department with ten (10) days to comply. If failure to comply, the City reserves the right to remove any barriers or furniture from the public right-of-way. Notwithstanding the foregoing, an Outdoor Café Permit may be immediately revoked if the permit holder violates the time limits set forth in §327-2.C. *Hours and Months of Operations* above. If an Outdoor Café Permit is revoked, the permit holder may be ineligible to receive future Outdoor Café Permits. Any notice can be e-mailed to the permit holder or delivered to the restaurant or tavern associated with the Outdoor Café.

§327-2.M. Modification or Revocation Appeal Process.

Should an Outdoor Café Permit be modified or revoked for any reason, the permit holder shall have the ability to appeal the modification or revocation by submitting such appeal in writing to the Council of the City of Binghamton within thirty (30) days from receipt of the modification or revocation. The appeal shall not stay the modification or revocation.

§327-3. [Reserved]

ARTICLE III, Banner Permits [Adopted 10-5-1981 by Ord. No. 178-81 (Ch. 12, Art. VI, §§ 12-160 through 12-171, of the 1970 Code); Amended 12-19-2012 by Ord. No. 12-76]

§ 327-4. Banner Permits.

The issuance of a Banner Permit shall allow for the erection of a banner over and across a public highway. The placement of banners across public highways shall be completed by the City of Binghamton upon issuance of a permit.

§ 327-5. Application. [Amended 8-20-2014 by Ord. No. 14-47]

In order to obtain a Banner Permit, the Applicant shall provide the following to the City Clerk:

- A. Applicant name, mailing address, telephone number, and email address.
- B. The dimensions of the proposed banner. No banner shall exceed the dimensions outlined in § 327-6.
- C. A copy of the words or designs to be place upon said banner.
- D. Preferred banner display location. Banner display locations shall be granted on a first-come first-served basis; however, banner applicants in good standing with the City shall have the right of first refusal of the location and dates from which they had a banner the year prior. The City reserves the right to modify the banner display location based upon availability.

- E. The requested dates during which the banner shall be displayed. Banners may be hung in one (1) week increments, and may be displayed for no more than three (3) weeks in total. Requested banner display dates shall be grant on a first-come first-served basis. The City reserves the right to modify the banner display dates based upon availability.
- F. The date on which the banner will be delivered to the City of Binghamton.
- G. The Banner Permit fee, as outlined in § 327-8.

§ 327-6. Physical requirements.

All banners shall be made of canvas or heavy-duty vinyl. Metal grommets must be placed at all four corners, and every two feet along banner. Banners which are erected over and across a public highway but which are not attached to a solid structure, such as an overpass or bridge, must have wind flaps. No banner shall exceed the maximum dimensions of forty-two (42) inches by twenty (20) feet.

§ 327-7. Submission deadlines.

- A. Applications for Banner Permits must be submitted at least thirty-five (35) calendar days prior to the event, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the event shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the event.
- C. Applications received less than thirty (30) calendar days prior to the event shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-8. Fee for Banner Permit.

The fee for a Banner Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). Such fee shall be paid upon permit application, and shall be nonrefundable.

§ 327-9. Hold harmless.

The Banner Permit Applicant shall hold harmless and indemnify the City from any and all claims, actions, damages or liabilities of every name and nature which may arise or be incurred by the City as a consequence of placing the banner upon City property. This shall include any damage to the banner or any injuries sustained by third parties as a result of faulty materials.

§ 327-10. Permit fees.

- A. Rejections.
 - 1. Rejection of Permit Application. The City of Binghamton reserves the right to reject Banner Permit applications which are incomplete and/or unaccompanied by the required documentation. In addition, the City of Binghamton may reject a Banner Permit application if the requested location is unavailable. The rejection of a permit application does not

preclude the Banner Permit Applicant from resubmitting the Banner Permit application in the future, when such application is complete. The resubmission of a Banner Permit application shall not exempt the Event Permit Applicant from the submission deadlines outlined in § 327-23.

2. Rejection of Banner. The City reserves the right to reject a banner due to noncompliance with dimension restrictions, materials, or based upon the quality of the banner.
- B. Modifications. The City of Binghamton reserves the right to modify a Banner Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed event conflicts with a previously scheduled event.
 - C. Denials. A Banner Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed banner location or display dates conflict with a previously approved banner, or if the Applicant fails to comply with the regulations described herein.
 - D. Revocations. The City may revoke a Banner Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State.
 - E. Any notice can be e-mailed to the Banner Permit Applicant.

§ 327-11. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Banner Permit Applicant shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

Article IV, Event Permits [Adopted 12-19-2012 by Ord. No. 12-76]

§ 327-12. Event permit requirement established

- A. It shall be unlawful for any person or organization, within the City of Binghamton, to engage in any event or activity which would demand reserved use of City property without first having obtained an Event Permit.
- B. The issuance of an Event Permit may allow for the exclusive and reserved use of a designated area or portion of City property, including streets, parks and other public property, excluding carousels and pools, for concerts, festivals, weddings, processions, races, parades, protests, marches, block parties, fundraisers, sales, camping and/or other social gatherings. This section includes, but is not limited to, those activities which would allow the following:
 1. The closure of one or more streets for the purpose of limiting vehicular traffic;
 2. The placement of platforms, stages, tents, tables, chairs and/or grandstands upon City property;
 3. The operation of cooking apparatuses on City property;

4. The sale of food, beverages, goods and/or other merchandise on City property;
5. The consumption of alcohol on City property; and
6. Access to City electricity and/or water service.

§ 327-13. Exempt activities.

The following activities shall not require Event Permits:

- A. Those activities which fall under the regulation of Peddlers, Charitable Solicitors, or stationary food vendor operations, as defined by Chapter 307 of the Code of the City of Binghamton.
- B. Those activities which fall under the regulation of Outdoor Café Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- C. Those activities which fall under the regulation of Street Work Permits, as defined by Chapter 355 of the Code of the City of Binghamton.
- D. Those activities which fall under the regulation of Banner Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- E. Those activities which fall under the regulation of Permanent Resolution 12-28, entitled “A Resolution approving the issuance of permits for use of City water in community greenspaces”, adopted on April 18, 2012.
- F. Those activities which fall under the regulation of Block Party Permits, as defined by Chapter 327 of the Code of the City of Binghamton.
- G. Normal park activities, constituting a normal, ordinary use of City parks and/or other public spaces. Such activities include group picnics, social gatherings, recreation, and those activities which do not demand exclusive and reserved use of City property, but which instead occur on a “first-come first-served” basis. Camping shall not constitute a normal park activity, and is specifically prohibited in public spaces without first having obtained an Event Permit. In all cases, the City of Binghamton maintains the right to utilize such spaces for scheduled activities and events.

§ 327-14. Other activities.

Those activities and events not set forth in this Chapter which demand reserved use of City property shall be permitted upon receipt of approval from the Council of the City of Binghamton.

§ 327-15. Application.

In order to obtain an Event Permit, the Event Permit Applicant shall provide an application to the City Clerk which will require the following, along with such other information as the City shall find necessary and proper:

- A. Applicant name, mailing address, telephone number, and email address.
- B. Name of sponsoring organization, if any, along with the name, mailing address, telephone number, and email address of a contact person within the sponsoring organization.

- C. Name(s) of On-Site Event Manager(s), and emergency telephone number(s).
- D. A description of the event
- E. Website address of the event, if available.
- F. Date(s) and time(s) of the proposed event, including times at which set up prior to and clean up after the event will take place. The Event Permit Applicant must indicate whether or not rain dates and times are requested for the event. Rain dates and times shall be granted subject to availability.
- G. Location of the proposed event, specifying the designated area or portion of City property to be utilized.
- H. Estimated number of event participants. Special conditions may apply based upon the number of estimated event participants, as described in § 327-22.
- I. Description of all items to be placed upon City property and/or used during the event, such as platforms, stages, tents, tables, chairs, grandstands, cooking apparatuses, electrical equipment, sounds systems and/or amplification devices.
 - 1. In accordance with the definitions and regulations outlined in §§ F2402 – F2403 of the Fire Code of New York State, tents and membrane structures having an area in excess of two hundred (200) square feet (19 m²) and canopies in excess of four hundred (400) square feet (37 m²) shall not be erected, operated or maintained for any purpose without first obtaining an Operating Permit from the Fire Bureau
 - 2. The issuance of an Event Permit shall indicate compliance with all regulations outlined in Chapter 292, *Noise*, provided that the event is of three (3) or less days in total. For events of longer duration, the Event Permit Applicant must apply for a Noise Permit.
- J. Indicate whether or not individuals will be cooking during the event, and/or selling food. If cooking and/or the sale of food will take place during the event, the Event Permit Applicant must comply with all regulations as set forth in § 327-16
- K. Indicate whether or not access to City electricity and/or water service is requested. If access to City electricity is requested, the Event Permit Applicant must include an outline of all items which require use of City electricity, along with the power requirements of each item. If access to City water service is requested, the Event Permit Applicant must include a description indicating in what capacity the water will be utilized. Access to City electricity and/or water service may or may not be available. Additional fees may apply if access to City electricity and/or water service is provided, in accordance with § 327-20.
- L. Indicate whether or not the Event Permit Applicant intends to allow vendors to operate in the requested area during the event.

M. Indicate whether or not access to public restrooms is requested for the event. Access to public restrooms outside of normal operating hours shall be determined the Director of Parks and Recreation.

N. All required fees, as outlined in § 327-20, must be submitted at the time of permit application.

§ 327-16. Cooking and sale of food authorized.

A. If cooking will occur during the event, the Event Permit Applicant must include a description of all cooking apparatuses to be used in the Event Permit application. The Event Permit Applicant is responsible for obtaining all necessary Operating Permits, as may be required by the Fire Bureau. In addition, the Event Permit Applicant is responsible for ensuring that all proper safety measures as may be required by the Fire Bureau, such as the provision of fire extinguishers at all cooking apparatus locations, are observed.

B. If the sale of food will occur during the event, the Event Permit Applicant is responsible for ensuring that all necessary certificates from the Broome County Department of Health have been obtained prior to the event.

§ 327-17. Vendor operations permitted.

The Event Permit Applicant may sublet space, hire vendors, and/or allow vendors to sell food, goods and/or merchandise as part of the Applicant's event. The Event Permit Applicant shall remain liable for vendor operations occurring during his/her event, and is responsible for ensuring that all vendors have obtained the documentation necessary to conduct their businesses.

§ 327-18. Insurance requirements.

A. All Event Permit applications must be accompanied by proof of general liability insurance coverage in the amount of not less than one million dollars (\$1,000,000) and property damage insurance in an amount not less than fifty thousand dollars (\$50,000). If the Event Permit Applicant intends to sell alcohol during the event, the application must also be accompanied by proof of liquor liability insurance coverage in the amount of not less than one million dollars (\$1,000,000).

1. The insurance certificate must name the City of Binghamton as an additional insured on a primary non-contributory basis.
2. The insurance certificate(s) must be endorsed.
3. If primary, non-contributory liability insurance is not available, e.g., from another government agency that is self-insured, the City may waive such requirement based on an indemnification satisfactory to the Corporation Counsel.

B. Workers Compensation Insurance. If the Event Permit Applicant or sponsoring organization has paid employees, the Event Permit Applicant must provide proof of workers compensation insurance coverage.

C. The Event Permit Applicant shall hold harmless and indemnify the City from any and all claims, actions, damages or liability arising from the permitted event of every name and nature which may arise or be incurred by the City as a consequence of giving such permission for the exclusive and

reserved use of City property, or as a result of the conduct of event participants, or as a result of the cleaning of rubbish and/or debris from the area in which the event is held.

- D. An application for a protest or march where first amendment issues are presented may be eligible for a waiver of some or all of the insurance requirements based on the Applicant's ability to obtain insurance, the size of the protest or march, and the potential for damage to persons or property. The initial responsibility for determination of eligibility shall be made by the City Clerk upon consultation with Corporation Counsel. The City Clerk and Corporation Counsel may request input from a designated representative from the Office of the Mayor and from a designated representative from City Council prior to making a final determination.

§ 327-19. Obtaining City sponsorship for an event.

- A. An Event Permit Applicant may request City sponsorship of an event. Such requests must be made on an annual basis for each event. Eligibility for City sponsorship of an event shall be determined by the nature of the proposed event, and shall be limited to events which celebrate a national holiday, public service, or events which provide a public service. Events for which income is intended to be generated (including through the rental of space or booths, or through fundraising activities) shall not be eligible for City sponsorship unless the City of Binghamton directly receives all such income. Events which allow the sale of alcohol and/or other risky behavior shall not be eligible for City-sponsorship. The City may refuse a request for sponsorship as a result of complaints received due to noise which is considered unreasonable given the nature of the event, the accumulation of garbage or other debris, and other issues which may diminish the value of the event to the City of Binghamton and its residents.
- B. The Applicant will describe any proposed donation of time, materials, gifts or services to be contributed to the event. If the City approves the request for sponsorship, then such donations will be deemed accepted by the City.
- C. The initial responsibility for determination of eligibility shall be made by the City Clerk upon consultation with Corporation Counsel. The City Clerk and Corporation Counsel may request input from a designated representative from the Office of the Mayor and from a designated representative from City Council prior to making a final determination.
- D. If the request for sponsorship is approved, the City shall assume responsibility for the event, and shall be considered the organizer and sponsor of the event. Under such circumstance, the Event Permit Applicant shall be considered a co-sponsor and co-organizer. The City of Binghamton may either purchase the necessary insurance coverage, or allow the City of Binghamton's generally self-insured status to cover any liabilities which may be incurred during the course of the event. The City of Binghamton may include in the annual budget an amount which shall be dedicated to the purchase of insurance policies for City-sponsored events.
- E. Notwithstanding the foregoing, the City may agree to be a participating "sponsor" of an event without accepting responsibility for planning or organization of the event. In such case the organizers of the event will be required to provide insurance.

§ 327-20. Event permit fees.

- A. The fee for an Event Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J), and shall apply to each date of the proposed event. Additional fees for access to City electricity, water service, and/or for the closure of any City street may apply.
- B. All fees for Event Permits wherein the Applicant does not claim eligibility for City sponsorship shall be paid upon Event Permit application. Event Permits wherein the Applicant claims eligibility for City sponsorship may be submitted without the appropriate fee; however, should the City determine that the event is ineligible for City sponsorship, all fees must be paid prior to the issuance of such permit.
- C. Event Permit Applicants shall not be charged additional fees for rain dates, if requested.
- D. Event Permit Applicants requesting a refund of Event Permit fees due to cancellation of an event or withdrawal or denial of the permit application must submit such request in writing at least ten (10) business days prior to the event. Fees may be nonrefundable if the City incurred any expenses due to preparation for the event.

§ 327-21. Submission deadlines.

- A. Applications for Event Permits must be submitted at least thirty-five (35) calendar days prior to the event, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the event shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the event.
- C. Applications received less than thirty (30) calendar days prior to the event shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-22. Terms and conditions.

All Event Permits issued pursuant to this section shall be subject to the following terms and conditions:

- A. The Event Permit Applicant is responsible for inspecting the public property which he or she intends to reserve for the exclusive and reserved use of the event in order to determine whether or not the public property is suitable for the proposed event, and to ensure that there are no defects or dangerous conditions. If, subsequent to submitting the Event Permit application, a new defect or dangerous condition appears, the Event Permit Applicant must advise the City of Binghamton in writing at least five (5) business days prior to the event. The City may, in its discretion, correct the defect or dangerous condition or may advise the Applicant to cancel or adjourn the proposed event. If the Event Permit Applicant provides less than five (5) business days prior notice or elects to proceed with the proposed event before the defect or dangerous condition is remedied, the Event Permit Applicant and event participants waive any right of action against the City of Binghamton.

- B. The Event Permit Applicant shall maintain responsibility for the City property which is reserved for the exclusive and reserved use of the event, and shall be responsible for the cleaning, maintenance and/or repair of said event area:
1. Maintenance shall include cleaning the City property which is reserved for the exclusive and reserved use of the event of all rubbish and debris, leaving the site in a clean condition. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of the event.
 2. Failure to clean, maintain, and/or repair the event area to the satisfaction of the City may result in the denial of future Event Permit applications. If such failure should occur, the City shall provide services for the cleaning, maintenance and/or repair of the area in which the event was held, and the cost of such services shall be billed to the Event Permit Applicant.
- C. The Chief of Police may at his/her discretion and in the interest of public safety require the Event Permit Applicant to provide adequate security for the duration of the event (e.g. events which include the service of alcohol, and based upon the number of anticipated event participants or due to the time of the event). In addition, the Chief of Police may determine the number of volunteers and/or event marshals necessary to ensure the safety of event participants and other City residents.
- D. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.
- E. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.
- F. Event Permits are non-transferrable.
- G. No paint or other permanent markings are permitted upon City property for any event without the express approval of the Council of the City of Binghamton. Should Event Permit Applicants wish to place non-permanent markings upon City property for the purpose of showing the route for a procession, parade, or race, such markings shall be water-soluble.
- H. The City of Binghamton maintains the right to require the Event Permit Applicant to provide portable toilet facilities at the proposed event. Such determination shall be based upon the nature of the event, and the estimated number of event participants.
- I. Pursuant to Broome County Charter & Code Chapter 168, Article IX, an Automated External Defibrillator (AED) and a person who is trained in Cardiopulmonary Resuscitation (CPR) must be

available at any event during which five hundred (500) or more individuals will be in attendance at any given time.

- J. The Event Permit Applicant must designate at least one On-Site Event Manager who must be on-site during the course of the event, and who must be available by telephone in case of emergencies.
- K. The City of Binghamton shall provide garbage and recycling receptacles at all events occurring on City property in order to prevent the accumulation of trash and recyclable materials.
- L. Issuance of an Event Permit does not supersede other permits that may be issued for a similar area or times, e.g., an Event Permit does not supersede an existing Outdoor Café Permit.
- M. Any notice can be e-mailed to the Event Permit Applicant or the sponsoring organization.

§ 327-23. Permit rejections, modifications, denials and revocations.

- A. The City of Binghamton reserves the right to reject Event Permit applications which are incomplete and/or unaccompanied by the required documentation. The rejection of a permit application does not preclude the Event Permit Applicant from resubmitting the Event Permit application in the future, when such application is complete. The resubmission of an Event Permit application shall not exempt the Event Permit Applicant from the submission deadlines outlined in § 327-21.
- B. Modifications. The City of Binghamton reserves the right to modify an Event Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed event conflicts with a previously scheduled or annual event.
- C. Denials. An Event Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed event conflicts with a previously scheduled event, or if the permit Applicant fails to comply with the regulations described herein.
- D. Revocations. The City may revoke an Event Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State
- E. Should the Event Permit Applicant or event participants fail to comply with the provisions of any regulations described herein, the Event Permit Applicant may be ineligible to receive future Event Permits, and/or a prohibition on the event itself may be established. The City reserves the right to conduct inspections during the course of the event in order to ensure that all regulations as described herein are being met by the Event Permit Applicant.

§ 327-24. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Event Permit Applicant shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of

Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

§ 327-25. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, shall be guilty of a violation and liable for a fine of not less than \$100, but not exceeding \$500.

Article V, Block Party Permits [Adopted 12-19-2012 by Ord. No 12-76]

§ 327-26. Block party permits.

The issuance of a Block Party Permit shall allow for the closure of one or more City streets in residential districts for the purpose of hosting a social gathering intended to serve the residents of the street(s). Block parties shall be limited to one (1) day in length, and shall not include the provision of City services which would otherwise require an Event Permit, as outlined in Chapter 327 of the Code of the City of Binghamton.

§ 327-27. Application.

In order to obtain a Block Party Permit, an application must be submitted to the City Clerk. Such application must be submitted by three (3) Co-Applicants residing on the street to be closed, and shall require the following, along with such other information as the City shall find necessary and proper:

- A. Co-Applicant names, mailing addresses, telephone numbers, and email addresses.
- B. Date and time of the proposed block party, including times at which set up prior to and clean up after the block party will take place. The Block Party Permit Co-Applicants must indicate whether or not a rain date and time are requested for the event. Rain dates and times shall be granted subject to availability.
- C. Location of the proposed event, specifying the designated area or portion of City property to be utilized.
- D. Description of all items to be placed upon City property and/or used during the Block Party, such as platforms, stages, tents, tables, chairs, grandstands, cooking apparatuses, electrical equipment, sounds systems and/or amplification devices. Tents and membrane structures having an area in excess of two hundred (200) square feet (19 m²) and canopies in excess of four hundred (400) square feet (37 m²) shall not be permitted during Block Parties.
- E. A petition containing the approval of at least seventy-five percent (75%) of the properties with frontage (i.e., a property line) on the street(s) to be closed. At least one owner or tenant from each property must sign the petition.
- F. Estimated number of block party participants. Special conditions may apply based upon the number of estimated block party participants, as described in § 327-30.
- G. The required fee and security deposit, as outlined in § 327-29, must be submitted at the time of permit application.

§ 327-28. Submission deadlines.

- A. Applications for Block Party Permits must be submitted at least thirty-five (35) calendar days prior to the Block Party, not including the date of submission.
- B. Applications submitted less than thirty-five (35) calendar days but not less than thirty (30) calendar days prior to the Block Party shall be subject to late fees as shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). In the case of late submissions, late fees shall be applied to each day which is less than thirty-five (35) calendar days prior to the Block Party.
- C. Applications received less than thirty (30) calendar days prior to the Block Party shall be rejected.
- D. The submission requirements and deadlines described herein are based upon the submission of a complete application. Incomplete applications shall be rejected. The resubmission of a permit application shall not allow for the modification or suspension of submission deadlines.

§ 327-29. Fee & Security Deposit.

- A. The fee for a Block Party Permit shall be set from time to time by the Council of the City of Binghamton (See Exhibit J). Such fee shall be paid upon permit application.
- B. Block Party Permit Applicants shall not be charged additional fees for rain dates, if requested.
- C. Block Party Permit Applicants requesting a refund of Block Party Permit fees due to cancellation of the block party or withdrawal of the Block Party Permit application must submit such request in writing at least ten (10) business days prior to the scheduled event. Fees may be nonrefundable if the City incurred any expenses due to preparation for the Block Party.
- D. The Block Party security deposit shall be established from time to time by the Council of the City of Binghamton (See Exhibit J). The security deposit shall be paid upon permit application. Such funds shall be returned to the Block Party Permit Co-Applicants within thirty (30) days of the Block Party, unless the City is required to provide services for the cleaning, maintenance, and/or repair of the Block Party area, as outlined in § 327-29.

§ 327-30. Terms and conditions.

All Block Party Permits issued pursuant to this section shall be subject to the following terms and conditions:

- A. The Block Party Permit Co-Applicants are responsible for inspecting the public property which they intend to utilize in order to determine whether or not the public property is suitable for the proposed Block Party, and to ensure that there are no defects or dangerous conditions. If, subsequent to submitting the Block Party Permit application, a new defect or dangerous condition appears, the Block Party Permit Co-Applicants must advise the City of Binghamton in writing at least five (5) business days prior to the Block Party. The City may, in its discretion, correct the defect or dangerous condition or may advise the Co-Applicants to cancel or adjourn the proposed Block Party. If the Block Party Permit Co-Applicants provide less than five (5) business days prior notice or elect to proceed with the proposed Block Party before the defect or dangerous condition is remedied, the Block Party Permit Co-Applicants and Block Party participants waive any right of action against the City of Binghamton.

- B. The Block Party Permit Co-Applicants shall maintain responsibility for the City property permitted for Block Party use, and shall be responsible for the cleaning, maintenance and/or repair of said Block Party area.
 - 1. Maintenance shall include cleaning the City property which is permitted for Block Party use of all rubbish and debris, leaving the site in a clean condition. Such maintenance shall be subject to the satisfaction of the City of Binghamton. Maintenance shall also include the repair of any City property which may have been damaged during the course of the Block Party.
 - 2. Should the Co-Applicants fail to clean, maintain, and/or repair the Block Party area to the satisfaction of the City, the City shall provide such services, and shall deduct the cost of such services from the security deposit. If the security deposit is exhausted due to expenses incurred by the City for such services, the Co-Applicants shall remain liable and shall reimburse the City for any and all damages or injury to any City property that may arise due to the Block Party.

- C. The Block Party Permit Co-Applicants must notify all residents and businesses along the street(s) to be closed of such closure prior to the Block Party. Failure to notify residents and businesses of such closure may result in the denial of future Block Party Permit applications.

- D. The Block Party Permit Co-Applicants shall comply with all regulations set forth by the Police Department, Fire Bureau, or other public safety personnel, and shall be responsible for ensuring that participants of the Block Party adhere to all noise and public conduct regulations outlined in the Code of the City of Binghamton.

- E. Block Party Permits are non-transferrable.

- F. The Block Party Permit Co-Applicants must be on-site during the course of the event, and must be available by telephone in case of emergencies.

- G. The Block Party Permit Co-Applicants shall provide garbage and recycling receptacles for Block Parties occurring on City property in order to prevent the accumulation of trash and recyclable materials.

- H. Pursuant to Broome County Charter & Code Chapter 168, Article IX, an Automated External Defibrillator (AED) and a person who is trained in Cardiopulmonary Resuscitation (CPR) must be available at any event during which five hundred (500) or more individuals will be in attendance at any given time.

- I. The issuance of a Block Party Permit shall indicate compliance with all regulations outlined in Chapter 292, *Noise*.

- J. Applicants who request closure of any City street must place a legal notice in the Press & Sun Bulletin at least two (2) days and not more than five (5) days prior to the first day of the event. The legal notice must state the name of the event, the street(s) to be closed, the time(s) and date(s) of

closure. Recurring events may place one legal notice with all approved dates and times. This section shall not apply to an event on a Saturday, Sunday, or a National Holiday.

K. Any notice can be e-mailed to the Block Party Permit Co-Applicants.

§ 327-31. Permit rejections, modifications, denials and revocations.

- A. The City of Binghamton reserves the right to reject Block Party Permit applications which are incomplete and/or unaccompanied by the required documentation. The rejection of a permit application does not preclude the Block Party Permit Co-Applicants from resubmitting the Block Party Permit application in the future, when such application is complete. The resubmission of a Block Party Permit application shall not exempt the Block Party Permit Co-Applicants from the submission deadlines outlined in § 327-28.
- B. Modifications. The City of Binghamton reserves the right to modify a Block Party Permit and/or its requirements should it become necessary or proper to do so in the interest of public health and/or safety, to preserve the quality of life of other City of Binghamton residents, or if the proposed Block Party conflicts with a previously scheduled or annual event.
- C. Denials. A Block Party Permit application may be denied if the City determines that the issuance of a permit would cause public health and/or safety concerns, if the proposed Block Party conflicts with a previously scheduled event, or if the Block Party Permit Co-Applicants fail to comply with the regulations described herein.
- D. Revocations. The City may revoke a Block Party Permit for any violation of this section, the Code of the City of Binghamton and/or other regulatory guidelines as established by Broome County or New York State.
- E. Should the Block Party Permit Co-Applicant or Block Party participants fail to comply with the provisions of any regulations described herein, the Block Party Permit Co-Applicants may be ineligible to receive future Block Party Permits, and/or a prohibition on the Block Party itself may be established. The City reserves the right to conduct inspections during the course of the Block Party in order to ensure that all regulations as described herein are being met by the Block Party Permit Co-Applicants.

§ 327-32. Appeal process.

Should a permit be rejected, denied, modified, or revoked for any reason, the Block Party Permit Co-Applicants shall have the ability to appeal the decision by submitting such appeal in writing to the Council of the City of Binghamton within five (5) days from receipt of the rejection, denial, modification, or revocation. The appeal shall not stay the rejection, denial, modification, or revocation.

§ 327-33. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, shall be guilty of a violation and liable for a fine of not less than \$100, but not exceeding \$500.

