

Benefit Performances: Process Improvements Yielding Greater Harmony

Introduction

Sugarloaf Citizens' Association solicited the opinion of their legal counsel regarding the matter of the proper interpretation and enforcement of Section 30-4 of the Montgomery County Code, "Benefit Performances", as well as possible administrative and/or legislative solutions to the many problems that have arisen in connection with those activities. The following is a summary of the proposed administrative changes that, once implemented by the Department of Permitting Services, should afford greater compliance with intent of the Benefit Performance provision and produce greater harmony with the communities in which the events are held.

The undersigned's suggestions are as follows.

Suggested Administrative Changes—Permit Application. Applicable to all (Both Secular and Sectarian):

- A. An application for a benefit performance must be made in the name of the nonprofit organization and must be executed by an authorized officer thereof, as well as the owner of the property for which the permit is requested.
- B. The application must be accompanied by an affidavit of that officer stating that:
 - I. The activity/event/performance will actually be personally managed by the organization itself;
 - II.. All net proceeds from the same shall solely benefit the organization; and
 - III. No officer or member of the organization shall personally benefit from the performance, including, but not limited to, the payment of salary or any other form of compensation; and
 - IV. The organization will not employ or contract with any commercial vendors nor allow the same by any means to sell, hawk, or otherwise trade goods, foods, or services upon the premises covered by the benefit performance permit.
- C. The application must include the identification of the responsible officer(s) of the non-profit organization by full name, address and telephone number, at least one of whom will be on-site at all times during the benefit performance to respond to inquiries from representatives of the Montgomery County Government and oversee management of the event.

Applicable to Secular Organizations:

In connection with secular non-profit organizations, the application shall be accompanied by:

- A. Documentary evidence the organization is in good standing with the Internal Revenue Service [IRS], per IRS Publication 78, *Cumulative List of Organizations described in Section 170 (c) of the Internal Revenue Code of 1986*.
- B. A "Certificate of Good Standing" issued by Maryland State Department of Assessments and Taxation. [That document would prove the organization has registered to do business in the State and is in full compliance with its annual reporting requirements to that office.]
- C. Documentary evidence that the organization has properly registered and is in good standing with the Maryland Secretary of State's Office re registration and annual reporting of charities as required under state law.

Applicable to Sectarian (Religious) Organizations:

In connection with religious organizations, the application shall be accompanied by:

- A. Written evidence, such as Articles of Incorporation, (and if incorporated, then a Certificate of Good Standing issued by the State Department of Assessments & Taxation) By-Laws, Book of Order, or such similar documentation indicating the *bona fides* of the religious organization seeking the benefit performance permit. 10
- B. Identification, by name, title and address of all officers of the organization.
- C. Principal office address and phone number.

It should be noted that the event still must pay all of its "net proceeds" to the non-profit organization, and the organization must always be personally managing the same. Thus, it only makes sense to require an affidavit to that effect, and require that the organization, through an officer, apply for the permit and sign the affidavit and application, as opposed to an agent of a commercial entity running the commercial event.

Additional Procedural Recommendations:

1. Notice must be given to the neighbors at least 45 days prior to the event. Timing of application should be adjusted to allow for this requirement. This notice provision allows for farmers and other community members to adjust their calendar and avoids conflicts that otherwise may arise.
2. Application details (date/nature of event/expected number of participants) should be available online via current DPS system. Currently system only notes that application is pending/granted.
3. Applicant must estimate attendance and amount of traffic on routes to the event as part of application process.
4. Certain items on the permit will trigger automatic reports to state and county police, fire departments and emergency teams.

5. Application fee must cover County staff time to process permit including compliance monitoring. Current fee of \$62.50 is clearly inadequate to support current process and certainly would not allow for necessary inspection of events.

The undersigned respectfully submit these recommendations noting that they could clearly be addressed by changes in the administrative procedure/permit process of DPS. This will require nothing more than what should have been required in order to pass upon such applications under existing Section 30-4, even since the 2005 amendment. We will additionally pursue legislative initiatives geared toward greater harmony between the benefit performances and the hosting communities, including but not limited to, guidelines on annual number and duration of events that shall be permitted at any single location.

Anne Sturm, President, Sugarloaf Citizens' Association

Jim Brown, Former President, Sugarloaf Citizens' Association

Dolores Milmoe, Audubon Naturalist Society

Caroline Taylor, Montgomery Countryside Alliance