



September 12, 2025

Township of West Caldwell Mayor and Council
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Dear Mayor and Council Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech, writes to express serious concerns with the Township of West Caldwell's proposed ordinance regulating expressive activity in public spaces. As drafted, the ordinance imposes unconstitutional barriers to core First Amendment activity in traditional public forums, inviting costly and avoidable litigation. FIRE urges the Council to withdraw the ordinance from consideration and to ensure any future version is constitutionally compliant.

The Supreme Court has long recognized that the public has "strong free speech rights" in traditional public forums like streets, sidewalks, and parks, which, "time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions."¹ Government authority to "limit expressive activity" in these forums is "sharply circumscribed."² While municipalities may adopt reasonable time, place, and manner restrictions, they must (1) be neutral as to the speech's content, (2) be narrowly tailored to serve a significant government interest, and (3) leave open ample alternative channels for communication.³ Numerous provisions of Ordinance No. 1898 fail this test.

¹ *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 469 (2009) (cleaned up).

² *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 45 (1983).

³ *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

Advance application requirement

The ordinance requires permits for demonstrations and “special events,” encompassing a significant amount of constitutionally protected speech.⁴ Applications are due at least 30 days before the proposed event.⁵

Courts have repeatedly held that notice requirements of this length—and even shorter ones—violate the First Amendment.⁶ The “delay inherent in advance notice requirements inhibits speech.”⁷ While a municipality might be able to justify a short period of advance notice for large events to allow for planning necessary to ensure safety, in most cases, 30 days is far longer than necessary to serve those interests. Courts have upheld only brief periods, typically a few days at most.⁸

Advance application requirements must also accommodate spontaneous demonstrations in response to fast-breaking events.⁹ As one court explained in invalidating a 20-day notice requirement:

A spontaneous parade expressing a viewpoint on a topical issue will almost inevitably attract more participants and more press attention, and generate more emotion, than the “same” parade 20 days later. The later parade can never be the same. Where spontaneity is part of the message, dissemination delayed is dissemination denied.¹⁰

⁴ The ordinance broadly defines “demonstration” as the “gathering of twenty-five or more persons for the purpose of demonstrating, picketing, speechmaking, marching and the holding of vigils, and such other gathering as may be protected by the First Amendment to the United States Constitution and the New Jersey Constitution, where such gathering is to be held upon public property.” WEST CALDWELL, N.J., ORDINANCE NO. 1898 (proposed) § 22-3.3. A “special event” is a “preplanned event that ... is expected to draw a large number of people, sponsored by a sponsor other than the Township or its designee, ... proposed to be held on public property or private property but affecting public property or requiring Township support services, for the purpose(s) of entertainment, celebration, amusement, cultural recognition, arts and crafts displays and/or sales, amateur sports demonstrations or competitions, grand openings or similar activities generally considered recreational in nature. Examples include, but are not limited to festivals, street fairs, art shows, exhibitions, public celebrations, outdoor concerts, parades and road races.” *Id.* Importantly, “[e]ntertainment, as well as political and ideological speech, is protected” by the First Amendment. *Schad v. Mount Ephraim*, 452 U.S. 61, 65 (1981).

⁵ ORDINANCE NO. 1898 §§ 22-3.9(a)(1), 22-3.17.

⁶ See, e.g., *Sullivan v. City of Augusta*, 511 F.3d 16, 38–40 (1st Cir. 2007); *American-Arab Anti-Discrimination Comm. v. City of Dearborn*, 418 F.3d 600, 605–08 (6th Cir. 2005); *NAACP, W. Region v. City of Richmond*, 743 F.2d 1346, 1355–57 (9th Cir. 1984).

⁷ *NAACP*, 743 F.2d at 1355; see also *Better Path Coal. Planning Grp. v. City of Harrisburg*, No. 1:22-CV-623, 2024 U.S. Dist. LEXIS 147273, at *11 (M.D. Pa. Aug. 19, 2024) (“The simple knowledge that one must inform the government of his desire to speak and must fill out appropriate forms and comply with applicable regulations discourages citizens from speaking freely.”).

⁸ *Sullivan*, 511 F.3d at 38 (citing cases upholding notice requirements of between one and three days).

⁹ *Id.*; *American-Arab Anti-Discrimination Comm.*, 418 F.3d at 607.

¹⁰ *NAACP*, 743 F.2d at 1356.

The ordinance’s undefined “good cause” exception¹¹ does not cure the constitutional defect. First, it applies only to demonstrations, not special events, which also encompass First Amendment activity. Second, permit schemes must rest on “narrow, objective, and definite standards,”¹² not subjective judgments about whether “good cause” exists. Directing the Township Administrator to “consider the exigency of an event or occurrence sought to be protested” is insufficient. The term “exigency” is also undefined and vague, creating a serious risk of viewpoint discrimination and arbitrary enforcement. Is an environmental protest more “exigent” than a tax protest? Is a protest to change the status quo more “exigent” than one to preserve it? The U.S. Court of Appeals for the First Circuit rejected a “good cause” exception to a 30-day notice requirement, concluding it was overly burdensome and prone to arbitrary enforcement.¹³

Insurance requirements

The ordinance imposes blanket requirements of \$2,000,000 in general liability insurance and \$2,000,000 in auto liability insurance for demonstrations and special events.¹⁴ These requirements violate the First Amendment. Even assuming the Township can constitutionally impose minimum insurance requirements, they must be tied to objective, content-neutral criteria reflecting the specific event’s actual risks.¹⁵

Even if \$2,000,000 of coverage is justified for *some* large events, it is not justified for *all* events, which will vary in size and nature. The provision violates not only the U.S. Constitution, but also the New Jersey Constitution, under which the New Jersey Supreme Court struck down a universal \$1,000,000 liability insurance requirement for leafletting and petitioning.¹⁶

Cost reimbursements

The ordinance requires each permit holder to reimburse the Township for “any reasonable and foreseeable expenses” resulting from the event, plus “Extraordinary Costs”—those that, “at the Township’s sole discretion, [have] been determined to be unanticipated, excessive or unduly burdensome to the Township.”¹⁷ Similarly, special event holders must reimburse the Township

¹¹ ORDINANCE NO. 1898 § 22-3.9(e).

¹² *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 131 (1992).

¹³ *Sullivan*, 511 F.3d at 40; see also *Better Path*, 2024 U.S. Dist. LEXIS 147273, at *11 (a permit scheme that “allows for arbitrary application or decisions based in ‘the exercise of judgment’ or opinion is inconsistent with the First Amendment’s guarantee; such wide latitude opens the door for censorship”) (citing *Forsyth Cnty.*, 505 U.S. at 130–31).

¹⁴ ORDINANCE NO. 1898 §§ 22-3.14, 22-3.22.

¹⁵ *Forsyth Cnty.*, 505 U.S. at 131; *iMatter Utah v. Njord*, 774 F.3d 1258 (10th Cir. 2014) (Utah’s minimum requirement of \$1,000,000 in liability insurance for parade permit violated First Amendment because it was not tied to risk of specific parades based on objective characteristics like location, duration, and number of participants); *E. Conn. Citizens Action Grp. v. Powers*, 723 F.2d 1050 (2d Cir. 1983) (invalidating \$750,000 insurance requirement for group seeking to protest on abandoned railway bed, as state offered no basis for amount).

¹⁶ *Green Party v. Hartz Mt. Indus.*, 752 A.2d 315, 318 (N.J. 2000).

¹⁷ ORDINANCE NO. 1898 §§ 22-3.3; 22-3.6(f), (g).

for any “additional expenses or cost” for providing staff or security measures for “preserving the public safety and welfare during the course of the special event.”¹⁸

These provisions are unconstitutional for two reasons. First, no objective standards guide the cost determinations, which are “left to the whim of the administrator.”¹⁹ The “First Amendment prohibits the vesting of such unbridled discretion in a government official.”²⁰ Second, the provisions invite a “heckler’s veto” by allowing higher charges for events likely to draw hostile reactions. But speech “cannot be financially burdened, any more than it can be punished or banned, simply because it might offend a hostile mob.”²¹

The U.S. Court of Appeals for the Third Circuit—the decisions of which bind the Township—struck down a nearly identical requirement requiring public event holders “to bear all costs of policing, cleaning up and restoring the park” and “reimburse the City for any such costs incurred by the City.”²² The court called out the provision as particularly “offensive to the First Amendment” because an “applicant who signed the agreement required by the reimbursement provision would have no way of knowing the scope of the liability to which it might be subjecting itself.”²³ The provision gave officials “unlimited discretion” and unconstitutionally allowed them to collect costs that “would necessarily require a consideration of the content of the proposed speech and the anticipated reaction of the public”—such as marshaling resources to contain potential counter-demonstrators.²⁴ West Caldwell may recoup actual administrative costs, but they must be based on “narrow, objective, and definite standards” unrelated to the event’s expressive content.²⁵

Impermissible grounds for denying permits

Several grounds in the ordinance for denying permits impose unconstitutional prior restraints, grant officials excessive discretion, and/or allow enforcement of a heckler’s veto.

¹⁸ *Id.* § 22-3.19(11).

¹⁹ *Forsyth Cnty.*, 505 U.S. at 133.

²⁰ *Id.*

²¹ *Id.* at 134; *see also Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 252 (6th Cir. 2018) (The “freedom to espouse sincerely held religious, political, or philosophical beliefs, especially in the face of hostile opposition, is too important to our democratic institution for it to be abridged simply due to the hostility of reactionary listeners who may be offended by a speaker’s message.”).

²² *Nationalist Movement v. City of York*, 481 F.3d 178, 184, 186 (3d Cir. 2007).

²³ *Id.* at 186

²⁴ *Id.*; *see also Forsyth Cnty.*, 505 U.S. at 133 (invalidated a security fee requirement for demonstrations and other uses of public property because it vested unbridled discretion in government officials and authorized them to assess fees based on their “measure of the amount of hostility likely to be created by the speech based on its content”). Although section 22-3.4(b) declares the Township will not discriminate based on “the content of the speech” when granting or denying permits, that assurance does not salvage the reimbursement provisions. They still vest officials with excessive discretion and fail to expressly forbid imposition of costs or penalties tied to audience hostility or counterdemonstrations, which officials often mistakenly treat as content-neutral public safety factors.

²⁵ *Forsyth Cnty.*, 505 U.S. at 131; *Murdock v. Pennsylvania*, 319 U.S. 105, 113–14 (1943).

The ordinance mandates denial of a demonstration permit if “[i]t reasonably appears from past experience that the participants in the proposed demonstration will, by force or threat of force, willfully injure, intimidate or interfere with ... any person or class of persons participating in or enjoying any lawful activity.”²⁶ But speculation about future unlawful activity cannot justify a prior restraint on speech—“the most serious and the least tolerable infringement” of expressive rights.²⁷ The “law is clear that First Amendment activity may not be banned simply because prior similar activity led to or involved instances of violence.”²⁸ The “proper response to potential and actual violence is for the government to ensure an adequate police presence, and to arrest those who actually engage in such conduct, rather than to suppress legitimate First Amendment conduct as a prophylactic measure.”²⁹

Nor does the First Amendment tolerate denying permits to events that, in officials’ subjective judgment, “cause unreasonable hardship to adjacent businesses or residences” or “entail extraordinary Township services or unreasonable burdensome expense.”³⁰ Undefined terms like “unreasonable hardship” and “extraordinary” allow officials to deny permits arbitrarily or based on anticipated public reactions.

The vague requirement that events “not negatively affect or impair public health, welfare, and safety” suffers from the same defects.³¹ The Township must address crowd hostility without punishing or silencing the speaker, which “will seldom, if ever, constitute the least restrictive means available” to keep the peace.³²

Restrictions on commercial and for-profit speech

The ordinance’s prohibition on events held for “private profit” or “the sole purpose of advertising any products, goods or services”³³ cannot withstand First Amendment scrutiny.

Speech does not lose protection simply because the speaker is paid to speak or solicits contributions in the course of speaking.³⁴ Likewise, expressive materials like newspapers and artwork receive full First Amendment protection regardless of whether they are sold or given away.³⁵ The Township cannot ban expressive activity in a traditional public forum for the sole reason that money changes hands.

²⁶ ORDINANCE NO. 1898 § 22-3.10(4).

²⁷ *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976).

²⁸ *Collins v. Jordan*, 110 F.3d 1363, 1372 (9th Cir. 1996).

²⁹ *Id.* (citing *Cox v. Louisiana*, 379 U.S. 536, 551 (1965) and *Kunz v. New York*, 340 U.S. 290, 294–95 (1951)).

³⁰ ORDINANCE NO. 1898 § 22-3.18(b)(5), (6).

³¹ *Id.* § 22-3.6(k).

³² *Bible Believers*, 805 F.3d at 248.

³³ 22-3.6(h).

³⁴ *Riley v. Nat’l Fed’n of the Blind of N. Carolina, Inc.*, 487 U.S. 781, 801 (1988); *Bates v. State Bar of Ariz.*, 433 U.S. 350, 363 (1977).

³⁵ *Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 756 n.5 (1988); *White v. City of Sparks*, 500 F.3d 953, 957 (9th Cir. 2007); *ETW Corp. v. Jireh Publ’g, Inc.*, 332 F.3d 915, 924 (6th Cir. 2003) (“The protection of the First

Additionally, outside of restrictions on false or deceptive speech or speech that proposes an illegal transaction, restrictions on advertising and other commercial speech must be no more extensive than necessary to achieve a substantial government interest.³⁶ The Township's sweeping, indiscriminate ban does not meet that standard.

Time constraints

The ordinance bans demonstrations before 8:00 a.m. and after 10:00 p.m.³⁷ This blanket prohibition is unconstitutional.

While noise limits or temporary curfews may be valid in some circumstances, a permanent ban on group expression within a 10-hour window across all public spaces is not narrowly tailored. A candlelight vigil to mourn victims of a fatal car accident, for example, is unlikely to pose a realistic threat of public disturbance simply because it goes past 10:00 p.m. Nor does the restriction leave open alternative channels of communication—it completely bars access to all public forums during the 10-hour window.³⁸ And by foreclosing the possibility of nighttime assembly altogether, this sweeping provision threatens to suppress spontaneous expression in response to breaking news.³⁹

Conclusion

FIRE urges the Township to withdraw the ordinance from consideration. Be advised that even at six pages, the foregoing is not an exhaustive list of Ordinance No. 1898's constitutional defects under both the U.S. Constitution and the New Jersey Constitution, which imposes a high bar to speech restrictions given that its "free speech provision is an affirmative right, broader than practically all others in the nation."⁴⁰ We have worked with other municipalities nationwide to revise similar laws in ways that respect both First Amendment rights and legitimate government interests,⁴¹ and we would be glad to do the same with the Township of West Caldwell, at no cost.

Amendment is not limited to written or spoken words, but includes other mediums of expression, including music, pictures, films, photographs, paintings, drawings, engravings, prints, and sculptures.”).

³⁶ *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*, 447 U.S. 557, 566 (1980).

³⁷ ORDINANCE NO. 1898 § 22-3.9(b)(8).

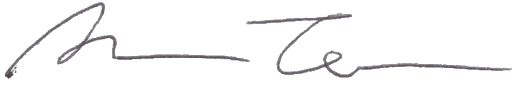
³⁸ *Startzell v. City of Phila.*, 533 F.3d 183, 202 (3d Cir. 2008) (alternative channels of communication are “not ample if the speaker is not permitted to reach the intended audience”) (cleaned up).

³⁹ FIRE filed a lawsuit earlier this month challenging a similar law in Texas requiring public universities to ban all “expressive activities” on campus between the hours of 10 p.m. and 8 a.m. *LAWSUIT: Texas bans the First Amendment at public universities after dark*, FIRE (Sept. 3, 2025), <https://www.thefire.org/news/lawsuit-texas-bans-first-amendment-public-universities-after-dark>.

⁴⁰ *Green Party*, 752 A.2d at 325 (citing *N.J. Coal. Against War in the Middle East v. J.M.B. Realty Corp.*, 650 A.2d 757, 779 (1994)).

⁴¹ See, e.g., Aaron Terr, *After FIRE’s intervention, Florida city ditches unconstitutional restrictions on political protests*, FIRE (Jan. 25, 2024), <https://www.thefire.org/news/after-fires-intervention-florida-city-ditches-unconstitutional-restrictions-political-protests>.

Sincerely,

A handwritten signature in dark ink, appearing to read 'A. Terr', with a long horizontal stroke extending to the right.

Aaron Terr
Director of Public Advocacy

Cc: Joann DeBlasis, Municipal Clerk

Encl.

TOWNSHIP OF WEST CALDWELL, NEW JERSEY

ORDINANCE NO. 1898

Councilman Wolsky

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF WEST CALDWELL, ESSEX COUNTY, NEW JERSEY, AMENDING CHAPTER 22 ENTITLED "PUBLIC PROPERTY AND RECREATION AREAS" TO INCLUDE CHAPTER 22, SECTION 3 ENTITLED "PUBLIC EVENTS"

WHEREAS, the Governing Body of the Township of West Caldwell recognizes that public events contribute significantly to the cultural, social, and economic vitality of the community; and

WHEREAS, such events, while beneficial, require careful planning to ensure the safety of participants, the orderly movement of traffic, the protection of public property, and the minimization of disruptions to residents and businesses; and

WHEREAS, the municipality has a duty to balance the community's enjoyment of public celebrations with its responsibility to provide adequate police, fire, emergency, and sanitation services; and

WHEREAS, establishing clear procedures for permitting, regulating, and managing public events is necessary to provide fairness, consistency, and transparency for event organizers and the community at large; and

WHEREAS, the governing body finds it in the best interest of the health, safety, and welfare of its residents to adopt an ordinance that sets forth requirements and standards for the scheduling, approval, and conduct of events held within the municipality;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST CALDWELL IN THE COUNTY OF ESSEX, NEW JERSEY, AS FOLLOWS:

Chapter 22, Section 3

22-3 Public Events.

22-3.2 Title.

This section shall be known and may be cited as the "Public Events Ordinance of the Township of West Caldwell."

22-3.2 Intent.

The Mayor and Township Council of the Township of West Caldwell find that streets, parks, public facilities and other public places in the Township are from time to time temporarily occupied or closed and used as sites for fairs, art shows, neighborhood celebrations and other public events, which are privately sponsored but open to the public to varying degrees. Events of this kind serve to improve the quality of life of the residents of the Township and often result in large numbers of people congregating within the confines of the temporarily closed streets or public places, and the resulting crowd conditions create concerns relating to the health, safety and welfare of the public at large and of persons and property in and near the closed area. It is, therefore, essential that a policy be established for governing these events, which shall facilitate control over them by the sponsor and by the Township officials from departments involved with the event to safeguard persons and property.

22-3.3 Definitions.

As used in this section, the following terms shall have the meanings indicated:

APPLICANT

An individual or organization submitting an application for an event subject to regulation by this chapter.

APPLICATION

A form issued by the Township Clerk for approval for any event subject to regulation by this chapter.

BLOCK PARTY

A gathering of local neighborhood residents held without charge and intended to be attended by local neighborhood residents held not more than one time per year where the participants contribute food and beverages and/or pay a small fee to cover the costs of same. Charging for alcoholic beverages is strictly prohibited.

BLOCK PARTY PERMIT

A permit required by this section to conduct a block party.

DEMONSTRATION

The gathering of twenty-five or more persons for the purpose of demonstrating, picketing, speechmaking, marching and the holding of vigils, and such other gathering as may be protected by the First Amendment to the United States Constitution and the New Jersey Constitution, where such gathering is to be held upon public property. This definition shall not include any gathering or activity that is prohibited by the First Amendment to the United States Constitution and New Jersey Constitution.

DEMONSTRATION PERMIT

A permit required by this section to conduct a demonstration.

EVENTS

Collectively, block parties, demonstrations and special events.

EXTRA ORDINARY COSTS

Any costs incurred by the Township that, at the Township's sole discretion, has been determined to be unanticipated, excessive or unduly burdensome to the Township.

PERMIT(S)

The written approval for block parties, demonstrations and special events, in a form approved by the Mayor or Township Administrator.

PERMITTEE

An applicant granted any permit authorized by this section.

PERSON

Any individual, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PROPERTY

Property which is owned, operated, maintained and/or controlled by the Township. Examples of public property include but are not limited to buildings, parking lots, plazas, streets, sidewalks, alleys, Township pool properties and parks.

SPECIAL EVENT

A preplanned event that, because of its nature, interest, location, promotion or any combination of similar influences, is expected to draw a large number of people, sponsored by a sponsor other than the Township or its designee, including but not limited to Downtown West Caldwell, proposed to be held on public property or private property but affecting public property or requiring Township support services, for the purpose(s) of entertainment, celebration, amusement, cultural recognition, arts and crafts displays and/or sales, amateur sports demonstrations or competitions, grand openings or similar activities generally considered recreational in nature. Examples include, but are not limited to festivals, street fairs, art shows, exhibitions, public celebrations, outdoor concerts, parades and road races.

SPECIAL EVENT PERMIT

A permit required by this section to conduct a special event.

SPONSOR

The individual, group of individuals, corporation or other entity responsible for organizing an event, and on whose behalf the applicant submits an application.

SUPPORT SERVICES

Those which can or must be provided by the Township to ensure that a special event is conducted in such a manner as to protect the safety, health, property and general welfare of the residents of the Township of West Caldwell. Examples include, but are not limited to police and fire protection, crowd management and control, and traffic management control.

TOWNSHIP

The Township of West Caldwell.

22-3.4 Permit Required; Nondiscrimination.

a. No event as defined in this section shall be advertised or held unless a permit for such event has been issued.

b. In granting or denying permits, the Township will not discriminate on the basis of age, gender, race, creed, religion, national origin or sexual preference, the content of the speech or the identity of the speaker(s).

22-3.5 Issuing Officers.

a. All permits, demonstrations, block party and special event permits may be approved by the Mayor or Township Administrator or designee after consultation with the Department Directors.

b. Applications for permits shall be made available by the Township Administrator his/her designees, who shall receive completed applications and maintain files of all applications, issued permits and denials of permits.

22-3.6 Provisions Applicable to All Events.

The following provisions apply to all events subject to this section:

a. Public property authorized for use in connection with any event shall not be obstructed by obstacles which cannot be readily moved to allow the passage of emergency vehicles, and events shall not unduly interfere with movement of emergency vehicles and emergency services to contiguous areas.

b. The Mayor, Police Chief, Township Administrator or their designees may revoke a permit or terminate any event in order to protect public safety and welfare or where the permit conditions have been violated.

c. Permits shall be issued to individuals and shall not be transferred or assigned, nor shall a permit be used at any location or on any date other than as specified in the permit.

d. Events which are cosponsored by the Township of West Caldwell are exempt from the provisions of this section, as are funeral processions, school-sponsored events and any governmentally sponsored events.

e. An application fee as set forth by resolution of the Township Council, shall be paid to the Township as payment for the administrative obligations imposed by this section except as prohibited by law.

f. Each applicant shall agree in writing to reimburse the Township for any reasonable and foreseeable expenses incurred by the Township resulting from the event, including but not limited to police service, setup and cleanup costs. Where the Chief of Police determines that police services are required, said services shall be furnished at the extra-duty rate as established by the Township Code, calculated on an hourly basis, with a minimum assessment of four (4) hours per officer to be paid by the applicant.

g. Each applicant shall agree in writing to reimburse the Township for any specified cost for the use of Township assets, as set forth by resolution of the Township Council from time to time. Additionally, an applicant may be required to reimburse the Township for any and all Extraordinary Costs as defined above that are incurred by the Township at any time in connection with the Event.

h. Events may not be held for the sole purpose of advertising any products, goods or services and may not be held for private profit.

i. Information provided in the application shall be complete and accurate in all material details. Incomplete applications shall be returned to the applicant.

j. An applicant shall not be issued a permit until such time as the applicant has complied with all terms of this section, including the submission of the required fees.

k. The conduct of the event shall not negatively affect or impair public health, welfare, and safety.

l. An event shall not be scheduled at a time when school is in session, when such event is located near a route or location adjacent to a school or class thereof without approval of the West Caldwell Superintendent of Schools, and the noise created by the activities of the event shall not substantially disrupt the activities of the school or class thereof.

m. Before a permit is issued, the applicant shall execute an endorsement on the permit agreeing to comply with the terms and conditions of this section and any special conditions and terms specified in the permit.

n. Applications for the use of the same public property at the same time shall be processed based upon the first received complete application. Applicants so denied a permit shall, if possible, be given alternative sites by the issuing officer.

o. An applicant shall at all times be present at the event and shall carry the permit upon his/her person during the conduct of the event.

p. In addition to the requirements of this section, all applicants, sponsors and event participants shall comply with all applicable local, state and federal law and regulations. Issuance of an event permit is not a substitute for any other required permit(s) from or required notice to other public or private entities whose roadways, property or interests may be impacted by the Event. Alcoholic beverages may not be served or consumed on public property at any event unless the applicant receives special permission in accordance with all other requirements pursuant to this section and/or any other chapter of the West Caldwell Municipal Code. Breach of any law or regulation shall be cause for revocation of permits.

22-3.7 Violations and Penalties.

Any person who violates any provision of this section, or who willfully violates the conditions contained in any permit, shall be subject to a penalty as set forth in the Code of the Township of West Caldwell.

22-3.8 Permit Required; Fee.

Public Events may be held only pursuant to a permit issued in accordance with the provisions of this section and upon payment of a fee as set forth by resolution of the Township Council from time to time except as prohibited by law. For any Events where the total attendance is anticipated to be in excess of one thousand (1000) attendees, the applicant will be required to deposit an additional security deposit with the Township to cover any unanticipated or Extra Ordinary expenses. All or a portion of the security deposit may be returnable to the applicant subject to any reimbursement required for unanticipated or Extra Ordinary expenses incurred.

22-3.9 Application for Demonstration Permit.

a. Filing period.

1. An application for a demonstration permit shall be filed on forms provided by the Township Administrator not less than thirty (30) calendar days in advance of any proposed demonstration.

2. Applications shall be received by the Township Administrator during the hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, holidays excepted or electronically as specified on the application. All demonstration applications shall be deemed granted, subject to all limitations and restrictions provided for in this chapter, unless denied within five (5) business days of receipt.

b. Contents. The application for a demonstration permit shall set forth the following information:

1. The name, address, telephone number and e-mail address of the applicant and at least one alternate.

2. If the demonstration is proposed to be conducted for, on behalf of, or by an organization, the name, address, telephone number, e-mail address and web-site address of the headquarters of the organization and of the authorized and responsible officers of such organization.

3. The name, address, telephone number and e-mail address of any person(s) responsible for organizing the demonstration in addition to the applicant.

4. The name, address, telephone number and e-mail address of any individual who will be present, in addition to the applicant, and in charge of the demonstration on the day of the demonstration.

5. The date when the demonstration is to be conducted.

6. The route, if any, to be traveled, the starting point and termination point and shall include a map and site plan specifying the route, area(s) of assembly and the location of any temporary structure(s) or equipment to be stationed anywhere in the Township to support the demonstration.

7. The approximate number of individuals who will participate in the demonstration.

8. The hours when such demonstration will start and terminate, which shall not be before 8:00 a.m. or after 10:00 p.m.

9. A statement as to whether the demonstration will occupy all or only a portion of the width of the streets proposed to be traversed or public property proposed to be used.

10. The location of any assembly areas for such demonstration.

11. The time at which units of the demonstration will begin to assemble at any such assembly area or areas.

12. Any supplemental information which the Mayor or his/her designee and/or the Township Administrator or his/her designee shall find necessary to determine whether to approve or conditionally approve the demonstration permit.

c. Upon receipt of an application, the Township Administrator shall promptly forward copies to the Mayor and all Department Directors.

d. Processing of applications. Permit applications for demonstrations shall be processed in order of receipt, and the use of a particular area shall be allocated in order of receipt of completed applications, subject to the limitations set forth in the section of this Article titled "Issuance of Permit."

e. The Township Administrator, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than thirty (30) days in advance of any proposed demonstrations. In so doing, the Township Administrator shall consider the exigency of an event or occurrence sought to be protested.

22-3.10 Issuance of Demonstration Permit.

a. The Mayor or Township Administrator shall issue a permit as provided for hereunder unless, from consideration of the application, it is found that:

1. The requested location is not a public forum or has been determined to be an inappropriate limited forum. In that event, an alternate site, if available for the activity, may be proposed by the Township Administrator to the applicant.

2. The applicant is unwilling to accept and abide by time, manner and place restrictions placed by the Township Administrator or his/her designee.

3. A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorizing activities which do not reasonably permit multiple occupancy of the requested demonstration site. In that event, an alternate site, if available for the activity, may be proposed by the Township Administrator to the applicant.

4. It reasonably appears from past experience that the participants in the proposed demonstration will, by force or threat of force, willfully injure, intimidate or interfere with or attempt to injure, intimidate or interfere with any person or class of persons participating in or enjoying any lawful activity.

5. Information contained in the application or requested supplemental information is found to be incomplete or inaccurate in any material detail.

b. When the grounds for denial of an application for permit can be corrected by the imposition of time, manner and place restrictions, such restrictions shall be offered to the applicant. If acceptable, the applicant will endorse a consent specifying such restrictions on the permit to be issued. The applicant shall take all steps the Township Administrator may direct to advise demonstration participants of such restrictions.

22-3.11 Temporary Structures Prohibited; Sound Equipment.

a. In connection with permitted demonstrations, all temporary structures, including but not limited to stands, platforms, lecterns, chairs, portable sanitary facilities and press facilities, shall be prohibited.

b. Sound-amplification equipment reasonably necessary for the conduct of the demonstration shall be permitted, provided such equipment was disclosed in the application and approved in the permit, subject to such restrictions as the Township Administrator may find necessary to protect residential privacy.

22-3.12 Denial of Demonstration Permit.

The Township Administrator or his/her designee shall act upon the application for a demonstration permit within five (5) business days. If the Township Administrator or his/her designee denies the application, he/she shall file a written statement with the Township Clerk and cause it to be delivered to the applicant, within five (5) business days after the date upon which the application was filed, stating the reasons for the denial of the permit.

22-3.13 Demonstration Permit Appeal Procedure.

An aggrieved applicant shall have the right to appeal the denial or revocation of a demonstration permit to the Township Administrator. The notice of appeal shall be filed within forty-eight (48) hours after notice of the application revocation or denial and shall be in writing. The Township Administrator shall act upon the appeal within forty-eight (48) hours after its receipt and his/her decision shall be in writing. An appeal may be decided by the Township Administrator based on the written record.

22-3.14 Insurance Requirements.

a. The applicant/sponsor of a demonstration must submit a certificate evidencing comprehensive liability insurance. Such insurance shall name the Township of West Caldwell, its officers, employees, elected officials, and agents on the policy or by endorsement as additional insured. Insurance coverage must be maintained for the duration of the demonstration. Coverage shall be as follows:

1. General liability: \$2,000,000.
2. Auto liability: \$2,000,000.
3. Workers' compensation: statutory requirements.

b. A certificate of insurance, along with all necessary endorsements, must be filed with the Township Clerk no less than five (5) days before the date of the demonstration. The demonstration permit shall not be issued by the Township Administrator until after the insurance policy or certificate of insurance, along with necessary endorsements, have been filed by the applicant or sponsor.

22-3.15 Notice to Township and Other Officials.

Immediately upon issuance of a demonstration permit, the Township Administrator shall send a copy thereof to the following:

- a. Mayor and members of the Township Council.
- b. All Department Directors.

22-3.16 Public Conduct During Demonstrations.

a. No person shall unreasonably hamper, obstruct or impede or interfere with any demonstration or demonstration assembly or with any person participating in a demonstration.

b. No vehicles shall be driven or used as part of a demonstration.

c. Parking on demonstration route. Pursuant to the Code of the Township of West Caldwell, the Police Chief or his/her designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a roadway or part thereof constituting a part of the location or route of demonstration.

22-3.17 Application for Special Event Permit.

An applicant seeking a special event permit shall file an application with the Township Clerk's office upon a form provided by the Township Clerk or his/her designee, no later than thirty (30) days before the special event. The application shall include:

a. The name, address, telephone number and e-mail address of the applicant, who must be at least 18 years of age.

b. The name, address, telephone number, e-mail address and website address of the person sponsoring the special event; if a corporation or other organization, the name and address of the officers of the organization and the relationship of the applicant to said organization.

c. The name, address, telephone number and e-mail address of the individual, who must be at least 18 years of age, who will be present and in charge of the special event on the day of the event.

d. The date and time of the proposed special event.

e. The location of the proposed special event.

f. The hours of operation of the proposed special event, which shall not be before 8:00 a.m. or after 10:00 p.m.

g. The schedule of proposed activities at the special event.

h. The number of participants anticipated to attend the special event.

i. Whether an admission fee will be charged and, if so, how much.

j. Whether the event is open to the general public and, if not, what group or groups are permitted to attend.

k. The nature or purpose of the special event.

l. Whether any merchandise, food or beverages will be sold at the special event.

m. The type and estimated number of vehicles and animals, if any, which will be used at the special event.

n. Information pertaining to parades, races and other events occurring along a specified route, including but not limited to the following:

1. The assembly point for the special event, the time at which units of the parade or other event will begin to assemble.

2. The route to be traveled.

3. Whether the parade or other event will occupy all or only a portion of the streets in the proposed route.

4. The number, type and size of floats.

5. Material and maximum size of any signs or banners to be carried along the route.

22-3.18 Special Event Application Review and Approval.

a. The Township Administrator shall promptly forward completed applications to the Mayor and Department Directors or their designees.

b. The Police Chief, Fire Chief and other Department Directors or their designees shall review the application and make a public safety assessment for the Township Administrator. The Township Administrator or his/her designee shall authorize issuance of the special event permit upon finding the following:

1. The conduct of the special event will not require the diversion of so great a number of police officers to properly police the special event and the area contiguous thereto so as to prevent normal police protection for the Township of West Caldwell.

2. If a parade, race, or other event is occurring along a specified route, the special event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays in route.

3. The special event will not tend to unreasonably interfere with the public use of streets and sidewalks and private properties and can be conducted in a safe manner.

4. The conduct of the special event will not unreasonably disrupt traffic within the Township.

5. The location of the special event will not cause unreasonable hardship to adjacent businesses or residences.

6. The special event will not entail extraordinary Township services or unreasonable burdensome expense to the Township.

7. The location requested for the special event will not unreasonably interfere with mass transit.

c. A special event permit shall be approved, conditionally approved or denied, contingent upon the conditions specified above, within five (5) business days after receiving a completed application. If the application is denied or conditionally approved, the applicant shall be advised, in writing, of the grounds for denial or conditional approval and his/her right of appeal. If the Township Administrator relied on information about the event other than that contained within the application, the applicant shall be advised of such information. The applicant shall be notified of any permit conditions at the time the application is approved and his/her right of appeal of the permit conditions.

d. When the grounds for denial of an application are due to the noncompliance with any conditions which can be corrected by altering the time, date, duration, route, or location of the event, the application shall be approved conditionally, contingent upon the applicant's acceptance of conditions for permit issuance.

22-3.19 Special Event Permit Conditions.

a. The Township Administrator or his/her designee may condition the issuance of a special events permit by imposing reasonable requirements concerning the time, place and manner of the event and such other requirements as are necessary to protect the safety of persons and property and the control of traffic, provided such conditions shall not unreasonably restrict the right of free speech. Such conditions include, but are not limited to:

1. Alteration of the date, time, duration, route or location of the event proposed on the special event application.

2. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route.

3. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the special event to only a portion of public property.

4. Requirements for the use of traffic cones and barricades.

5. Requirements for the provision of first aid or sanitary facilities.

6. Requirements for use of special event monitors and providing notice of permit conditions to special event participants.

7. Restrictions on the number and type of vehicles, animals at the event and inspection and approval of floats, and decorated vehicles for safety purposes by the Fire Department, the Health Department and Department of Code Enforcement, where applicable.

8. Compliance with animal protection ordinances and laws.

9. Requirements for use of garbage containers, cleanup and restoration of Township property. If the permit holder does not clean the area under permit or inadequately cleans the area, the West Caldwell Department of Public Works shall provide the necessary services at the expense of the permit holder.

10. Restrictions may be placed on the use of amplified sound to ensure the reasonable enjoyment of public spaces to others.

11. In situations where the Township Administrator, Police Chief, Fire Chief, or their designee deems it necessary to have additional police officers, firefighters or other Township staff and/or any other security measures made available for the purpose of preserving the public safety and welfare during the course of the special event, the applicant shall be so advised. If additional expenses or cost are incurred for the purpose of providing such staff or services, the permit holder shall be required to reimburse the Township for such expenses or costs.

12. Applicants may be required to post escrows in amounts to cover the estimated cost of additional expenses borne by the Township but are the responsibility of the applicant.

22-3.20 Special Event Miscellaneous Provisions.

a. The Township Administrator shall not process more than one special event permit for any one twenty-four-hour period (12:01 a.m. to 12:00 midnight) unless approved by the Mayor or his/her designee. Where more than one special event application is received for the same date, the application received first will be considered first.

b. No permit shall be issued to any applicant who unlawfully discriminates based on age, sex, race, creed, religion, national origin or sexual preference or for an event sponsored by an organization which so discriminates. All applicants shall submit to the Township Administrator's office a sample of any and all advertisements for said event, at least fourteen (14) days prior to said event and as they occur in the days leading up to the event.

22-3.21 Special Event Appeal Procedure.

Any aggrieved applicant or permit holder shall have the right to appeal the special conditions, denial or revocation of a special events permit to the Township Administrator. The written notice of appeal shall be filed within two days after notice of special conditions, denial or revocation. The Township Administrator shall act upon the appeal with five (5) business days after its receipt. The Township Administrator's decision shall be in writing and shall indicate the reasons for the Township's decision. Permit holders whose permits are revoked during the event shall not have a right to appeal.

22-3.22 Insurance Requirements.

a. The applicant/sponsor of a special event must submit a certificate evidencing comprehensive liability insurance. Such insurance shall name the Township of West Caldwell, its officers, employees, elected officials, and agents on the policy or by endorsement as additional insured. Insurance coverage must be maintained for the duration of the special event. Coverage shall be as follows:

1. General liability: \$2,000,000.

2. Auto liability: \$2,000,000.

3. Workers' compensation: statutory requirements.

b. A certificate of insurance, along with all necessary endorsements, must be filed with the Township Clerk no less than five (5) days before the date of the special event. The special event permit shall not be issued by the Township Administrator until after the insurance policy or certificate of insurance, along with necessary endorsements, have been filed by the applicant or sponsor.

22-3.23 Application for Block Party Permit.

a. The Township Administrator shall be authorized to issue a permit for the temporary closure of public property for an approved block party. At least thirty (30) days before the commencement of any block party, an application for such permit shall be filed with the Township Administrator by a bona fide resident, who is at least 18 years of age, of the neighborhood conducting the block party. Such application shall contain:

1. The name, address, telephone number, and e-mail address of the applicant.
2. The name, address, telephone number, e-mail address and website address, if available, of the sponsor.
3. The name of the public property, including any streets, on which the block party is to be held, and a description of the portions thereof to be closed.
4. A statement from the applicant that a majority of the residents on any street or block(s) for the proposed block party have been notified and approved of the proposed block party, location, date, and hours.
5. The date and the hours thereof, which shall not be before 10:00 a.m. or after 10:00 p.m.

b. The application may require such additional information as the Township Administrator deems necessary to determine whether to approve or conditionally approve the block party.

22-3.24 Block Party Application Review and Approval.

a. Completed applications shall be sent by the Office of the Township Administrator to the Mayor and all Directors or their designees and by regular mail to the owners of all property immediately abutting the concerned public property at the addresses maintained by the Tax Assessor for such property owners.

b. The Township Administrator and Directors or their designees shall review the application and make a public safety assessment for the Township Administrator. The Township Administrator or his/her designee shall authorize issuance of the block party permit upon finding the following:

1. The conduct of the block party will not cause a diversion of police officers so as to prevent normal police protection for the Township of West Caldwell.
2. The block party will not unreasonably interfere with access to private property.
3. The conduct of the block party will not unreasonably disrupt traffic within the Township.
4. The location of the block party will not cause unreasonable hardship to adjacent businesses or residences.
5. The block party will not cause extraordinary Township services or cause an unreasonably burdensome expense for the Township.
6. The applicant has complied with all terms this chapter, including the submission of the required fees.
7. The location requested for the block party will not unreasonably interfere with mass transit.

c. A block party permit shall be approved, conditionally approved or denied, contingent upon the conditions specified above, within five (5) business days after receiving a completed application. If the application is denied or conditionally approved, the applicant shall be advised, in writing, of the grounds for denial or conditional approval.

If the Township Administrator relied on information other than that contained within the application, the applicant shall be advised of such information.

22-3.25 Block Party Permit Conditions.

a. The Township Administrator or his/her designee may condition the issuance of a block party permit by imposing reasonable requirements concerning the time, place and manner of the event and such other requirements as are necessary to protect the safety of persons and property and the control of traffic. Such conditions include, but are not limited to:

1. Alteration of the date, time, duration, or location of the event proposed on the block party application.

2. Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the block party to only a portion of public property.

3. Requirements for the use of traffic cones and barricades.

4. Requirements for use of garbage containers, cleanup and restoration of Township property.

5. Restrictions on use of amplified sound.

6. In situations where the Police Chief or his/her designee deems it necessary to have additional police officers and any other security measures made available for the purpose of preserving the public safety and welfare during the course of the block party, the applicant shall be so advised. If additional expenses or cost are incurred for the purpose of providing such police protection, the permit holder shall be required to reimburse the Township for such expenses or costs.

7. Applicants may be required to post escrows in amounts to cover the estimated cost of additional expenses borne by the Township but are the responsibility of the applicant.