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ORDINANCE 88
SPECIAL EVENTS

AN ORDINANCE ADOPTING REGULATIONS FOR SPECIAL EVENTS TO BE HELD IN THE TOWN OF BAYSIDE; INCLUDING PROVISIONS PERTAINING TO DEFINITIONS, APPLICATIONS, PERMITS, CONDITIONS, FEES AND OTHER PROCEDURES; PROVIDING PENALTIES FOR THE VIOLATION WHEREOF; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED. BY THE CITY COUNCIL OF THE TOWN OF BAYSIDE, TEXAS THAT THE FOLLOWING PROVISIONS SHALL AND CONSTITUTE THE BAYSIDE SPECIAL EVENTS ORDINANCE:

WHEREAS, it is in the best interest of the Town of Bayside to adopt permit procedures for use of public streets and public parks;

WHEREAS, the Town of Bayside desires to encourage outdoor concerts and special events, but wishes to decrease any liability risk or risk to public safety; and

WHEREAS, there is one characteristic that all special events have in common: They all impact the operations of the City to one degree or another so it is necessary and desirable for the City to have sufficient advance notice of what it will be expected to do to maintain order and to reduce if not eliminate potential problems; and

WHEREAS, in order that adequate arrangements may be made for the proper protection of the special event, the people in attendance, and the general public, an application is the best requirement.

SECTION 1
PURPOSE

Some gatherings or organized activities, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety and welfare. In order to plan for these demands on public resources and to ensure that public health and safety is protected, it is necessary that the city receive advance notice of these special events. The provisions of this division are intended to address those concerns and are not intended to place unnecessary burden on any individual's right to association or freedom of expression.

SECTION 2
DEFINITIONS

APPLICANT means a person who has filed a written application for a special event permit.

BLOCK PARTY shall mean a temporary gathering of people held on a barricaded portion of a public residential street within the city.

CITY means the Town of Bayside, Texas.

PARADE means any assembly, march, demonstration, or procession upon public thoroughfares within the city consisting of fifty (50) or more persons, animals, or vehicles with an intent of attracting public

attention and that is reasonably likely to interfere with the normal flow or regulation of traffic upon public thoroughfares.

PERMITTEE means the person to whom a permit is granted pursuant to this article.

PERSON means any individual, assumed named entity, partnership, association, corporation, or organization.

SIDEWALK means that portion of a street between the curb lines or lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

SPECIAL EVENT means a temporary event, gathering or organized activity, including but not limited to parades, bike races, marathons, walk-a-thons, fireworks displays, concerts, carnivals, or other types of races and festivals, using city-owned property, involving fifty (50) or more persons and which involves one or more of the following activities:

Closing a public street;

Blocking or restriction of city-owned property;

Sale of merchandise, food or beverages on city-owned property;

Erection of a tent equal to or greater than two hundred (200) square feet in area on city-owned property;

Installation of a stage, band-shell, trailer, van, portable building, grandstand or bleachers on city-owned property;

Placement of portable toilets on city-owned property;

Placement of temporary no-parking signs in a public right-of-way; or

Placement of pedestrian boundary markers on city-owned property.

STREET means the entire width between the boundary lines of every way publicly maintained, when any part thereof is open to use by the public for the purposes of vehicular traffic.

SECTION 3 APPLICATION, PERMIT AND APPEAL

SEC. 3.1 Application of Article; Exceptions.

- A. All special events, except for those set forth in subsection 3.1 B, must conform with all applicable provisions of this ordinance.
- B. The following events are exempt from the provisions of this ordinance:
 - 1. Block parties;
 - 2. Motorcades which comply with all traffic laws;
 - 3. A governmental agency acting within the scope of its functions;
 - 4. The Town of Bayside Annual Clean Up;
 - 5. Events which are authorized under a separate agreement or permit issued by the city.

SEC. 3.2 Permit

A. Permit required.

1. It shall be unlawful for any person to conduct a special event without first having obtained a permit from the city secretary.
2. It shall be unlawful for any person to participate in a special event for which the person knows a permit is required and has not been granted.
3. It shall be unlawful for any person in charge of, or responsible for the conduct of, a special event to knowingly fail to comply with any condition of the permit.

B. Application For Permit

1. A person seeking a special event permit shall file both a preliminary and final special event permit application with the city official upon forms provided by the city.
2. The city official, or his designee, shall ensure that the other licenses and permits, restrictions, regulations, fees for the city services, safeguards or other conditions deemed necessary for the safe and orderly conduct of a special event be requested, submitted, and approved before the final permit is granted. Separate permits will not be required for tents, awnings, canopies, loudspeakers or temporary signage in conjunction with the event.

SEC. 3.3 Filing Period. Except as provided below, a preliminary special event permit application shall be filed at least thirty (30) days before but not more than six (6) months in advance of the intended event date. A final special event permit application shall be filed at least twenty (20) days before the event date. Preliminary and final applications for permits filed less than twenty (20) days before the event may be considered for parades and other forms of public assembly or where a reduced notice period does not pose a threat to public health and safety.

SEC. 3.4 Submittal Requirements.

A. The preliminary special event permit application for a special event permit shall set forth as a minimum the following information:

1. The name, address and telephone number of the person seeking to conduct the event.
2. If the event is to be held for or by an organization, the organization and/or the authorized and responsible heads of such organization.
3. If the event is to be held by or for a person other than the applicant, the applicant shall file a written statement from that other person showing authority to make the application.
4. The name, address and telephone number of the person who will be the event chairman and who will be responsible for conducting the event.
5. The proposed location(s) for the event.
6. The purpose of the event.
7. The date(s) and time(s) the event will start and terminate.
8. The time at which on-site activities in preparation for the event will begin.

B. The final special event permit application shall set forth as a minimum the following information in addition to the preliminary special event permit application information:

1. The date when clean up of the property will be complete.

2. The proposed parking areas and number of parking spaces provided.
3. The approximate number of persons who are attending per day and for duration of permit.
4. The number and types of animals and vehicles that are part of the event.
5. The location and size of tents, awnings, canopies, food service booths, or other temporary structures shall be shown on a map. A certificate of flame resistance shall be provided for all tents, canopies or other membrane structures that are equal to or greater than two hundred (200) square feet in area.
6. Details for any planned signage shall be included.
7. When loudspeakers will be used, the location and orientation of those speakers shall be shown on a map, in addition to any other amplification devices.
8. Proof of insurance for event if insurance is required by the city or state law.
9. Any other information which the city shall find necessary under the standards for issuance.
10. In the case of a parade the following additional information shall be provided:
 - (a) A route map.
 - (b) Approximate number of participants in the parade.
 - (c) Type of participants (ex. animals, floats, etc.).
 - (d) Evidence that all property owners adjacent to the parade route have been notified of the route, date and duration of the parade.
11. Map(s) showing streets and pedestrian ways that are impacted as well as site setup indicating all equipment that will be used by the event.

SEC. 3.5 Standards for Issuance of Permit.

A. A special event will be conducted in such a way that it:

1. Will not unnecessarily interrupt the safe and orderly movement of traffic near its location or route.
2. Will not require the diversion of so great a number of law enforcement officers to properly police the event locale or line of movement and the adjacent areas as to prevent normal protection for the city.
3. Will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the event and adjacent areas.
4. Will not interfere with the movement of firefighting equipment in route to a fire. The concentration of people, animals, and vehicles at assembly points will not unduly interfere with proper fire and law enforcement protection or ambulance service to areas near such assembly points.
5. In the case of a parade, the parade shall be scheduled to move from its point of origin to its point of termination without unreasonable delays in route.

SEC. 3.6 Denial or Revocation.

A. The city official may deny a special event permit if:

1. The event will conflict in time and location with another event for which a permit has already been granted.
2. The applicant fails to comply with or the event will violate an ordinance of the city or any other applicable law.
3. The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a special event.
4. The applicant has been convicted of violating this ordinance or has had a permit revoked within the preceding twelve (12) months.
5. The applicant fails to provide proof of a license or permit required by this or another city ordinance or by state law.
6. The event, in the opinion of the city official, would severely hinder the delivery of normal or emergency services or constitutes a public threat.
7. Insurance requirements for the event have not been met.

B. A special event permit shall be revoked upon the following conditions:

1. In the event that the law enforcement, fire chief, health director, building official or other city officials, or their designated representatives, find that any of the provisions of this ordinance, another city ordinance, or state law is being violated, they shall immediately notify the city official and based on that information, the city official shall determine whether it shall be revoked.
2. When, in the judgment of the above named officials, a violation exists which requires immediate abatement, they shall have authority to revoke a permit in the absence or unavailability of the city official.
3. The applicant made or permitted to be made a false or misleading statement or omission of material fact on an application for a special event.

C. Prior to denial of a permit the city official shall consider alternatives to the time, place or manner of the event that will allow the event to occur without posing a threat to health or safety, or otherwise violate state or local law.

SEC. 3.7 Appeals. Decisions of the city official, fire chief or any other city official regarding the issuance of a permit or the imposition of costs, additional restrictions or conditions upon the granting of a permit may be appealed to the city council. Such appeal shall be in writing and shall be filed with the city secretary within five (5) business days after the issuance of a decision by the city official or other official. When making a determination regarding the appeal, the city council shall consider the application under the standards provided in this ordinance and sustain or overrule the city official's decision. The decision of the city council shall be issued within five (5) business days and shall be final.

SEC. 3.8 Duration of Permit. The permit granted under the terms of this ordinance shall not exceed a period of fourteen (14) days. Another permit shall not be granted for the same location until at least thirty (30) days have elapsed from the expiration of the previous permit. The city official

may reduce the time limitations above upon review of location of the event, time of the event, type of event, safety of the event, and proximity to residential properties.

SECTION 4 APPLICANT PARKING REQUIREMENTS

- SEC. 4.1 Applicant shall submit evidence that sufficient parking has been provided to accommodate the projected number of users with a ten (10) percent surplus. If parking is to be on private property adjacent to the event, written evidence that the applicant has a right of possession of the property through ownership, lease, license, or other property interest must be provided. When the location is not an established parking area, a plan shall be submitted which shows how the needed parking will be achieved and arranged. The number of parking spaces and layout of parking area, including aisle widths and size of parking spaces, shall be included in the submittal.
- SEC. 4.2 When adequate parking is not available at or immediately adjacent to the site of the event, off-site private parking may be used. A written permission letter shall be submitted for any off-site private parking. Plans shall be submitted which will show how off-site parking and transfer of attendees will be accomplished.
- SEC. 4.3 City authority over parking. The city shall have authority, when reasonably necessary as determined by the city council, to prohibit or restrict the parking of vehicles along a street or highway or part thereof adjacent to the site of the special event. The city shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- SEC. 4.4 Trailers. No trailers or other vehicles may be temporarily occupied as living quarters at the site of such events.

SECTION 5 GENERAL REGULATIONS

- SEC. 5.1 Amusement Rides. Rides and/or attractions associated with special events shall conform with the statutory rules and regulations set forth in Chapter 21, Article 21.53 of the Texas Insurance Code, designated the Amusement Ride Safety Inspection and Insurance Act, as amended. Copies of inspection reports will [be] required. Amusement rides in enclosed areas greater than one thousand (1,000) square feet are required to be fire sprinklered.
- SEC. 5.2 Hours of Operation. A special event may be conducted only between the hours of 7:00 a.m. and 10:00 p.m. daily. The city council may alter the hours limitation upon review of location of the event, time of the event, type of event, safety of the event and proximity to residential properties. Appeals of time limit restrictions may be made under section 3.7 hereof. Set up of the event shall be allowed prior to 7:00 a.m. provided the noise generated by such activity will not disturb surrounding neighborhoods.
- SEC. 5.3 Tents and Temporary Structures. Any special event which includes the use of a tent, canopy, or temporary structure shall meet the requirements in the Fire Code except that a separate permit is not required when a special event permit has been obtained. Fire lanes for emergency equipment must be provided and the site prepared in a manner so as not to be a fire hazard as determined by the fire chief.
- SEC. 5.4 Food Service. Where food service is provided, said operation shall be in compliance with all provisions of the food and food establishment ordinances of the city, as well as all other

applicable state and local laws.

SEC. 5.5 Sanitary Facilities. A sufficient number of portable type sanitary facilities must be provided on the premises as determined necessary by the city official. One (1) portable toilet per two hundred (200) people is acceptable, and at least 1 portable toilet must be ADA handicapped accessible.

SEC. 5.6 Animal Waste. Waste from animals used in any such event shall be removed daily from the grounds. Should animals be kept within the city limits at night, they shall be kept not less than three hundred (300) feet from any developed residential or commercial districts. In the case of a parade, the applicant shall provide clean up for animals along the parade route at the conclusion of the parade.

SEC. 5.7 Utility Usage and Disposal of Waste Water.

- A. Any special event or related activity desiring use of utilities from the Town of Bayside must coordinate with the utility department to obtain a temporary meter. Deposit for the meter and payment for utilities used shall be in accordance with ordinances of the Town of Bayside.
- B. Applicant shall submit a plan for the disposal of wastewater, including capture and containment, and shall be approved by the environmental health department. All water generated must be disposed of through an approved sanitary sewage system that is constructed, maintained, and operated according to law.

SEC. 5.8 Trash Disposal. Trash disposal containers must be provided on-site for all outdoor special events. Applicants utilizing commercial dumpsters should make arrangements for the provision of such dumpsters with the commercial solid waste disposal company currently under service contract with the city.

SEC. 5.9 Loudspeakers/Noise.

- A. When loudspeakers, or any other amplifying device, are to be used in conjunction with the event, the location and orientation of these devices shall be indicated along with the planned hours of use.
- B. Speakers which are positioned so as not to adversely affect an adjacent residential district may be used between the hours of 7:00 a.m. and 10:00 p.m., when a special event permit has been obtained.

SEC. 5.10 Signage. Signage used in accordance with the event shall comply with the Sign Regulations of the Town of Bayside under the provisions for special event and promotional signage. Note: Signs advertising the event or directing potential customers to the event site are expressly prohibited from placement in the city rights-of-way unless approved by the city council.

SEC. 5.11 Alcohol.

- A. Alcohol beverages are prohibited in the city park and pier.
- B. The sale of alcohol beverages is prohibited.

SEC. 5.12 Inspections. Inspections may be required to show compliance with city ordinances. The Fire Department must review and approve the following: your plans for first aid and/or emergency medical services; your route for emergency vehicle access; parade floats; use of an open flame; use of fireworks or pyrotechnics; handling of vehicle fuel; cooking facilities; the

location of power sources; the availability and location of on-site fire suppression equipment; the occupancy and spacing of tables or enclosures; and the use of tents, canopies or any fabric shelters. The Fire Department may require an inspection before and/or during the event.

SEC. 5.13 Electrical Equipment. All electrical equipment and installations shall comply with currently adopted version of the National Electric Code.

SEC. 5.14 Law Enforcement Protection.

A. When the presence of law enforcement officers is necessary for special events, the applicant shall be responsible for reimbursing the county for the cost of providing county personnel. The cost for county provided personnel shall be one and one-half (1 1/2) times the salary for each assigned person on the date the permit is issued with a minimum of two (2) hours per individual. The standard staffing for Special Events is a minimum of one (1) off-duty law enforcement officer as event security and one officer shall be required for each 300 patrons expected to attend the special event. For repeat events, the numbers of required officers may be based on the best attended previous event. The objective standards used to determine the number of law enforcement officers shall be as follows:

1. General traffic conditions in the area requested, both vehicular and pedestrian;
2. Route to be taken if the event is a parade or other moving event;
3. Duration of the event;
4. Whether all or any portion of a roadway will be closed;
5. The estimated number of people who will attend;
6. Uses adjacent to the event such as residential or commercial areas;
7. Time and date of event;
8. Fireworks at the event;
9. Need for safety zones (fireworks launch area, etc.).
10. Recommendation from the Refugio County Sheriff's Department.

B. In no event will content of the event or the potential or anticipated reaction to the content by others be considered as factors in the number of officers needed. All reasonable alternative routes, times and locations will be considered so as to offer the applicant the option that will provide the lowest costs consistent with the general public health, safety and welfare. The cost of providing county personnel to meet these guidelines shall be waived by the city if agreed upon by the Refugio County Sheriff's Department.

SEC. 5.15 Fireworks/Pyrotechnic Displays. In addition to compliance with local law and the Fire Code, any use of fireworks or pyrotechnic displays must also show proof of a Pyrotechnic Operator's License prior to issuance of a special event permit.

SEC. 5.16 Street Closures.

A. The following factors are carefully considered prior to recommending approval of proposed street closures (whether lane closures, local streets or major/secondary streets).

1. Impact of the proposed closure on residents, occupants or business persons of the block;

2. Impact of the proposed closure on the accessibility of emergency vehicles to the area;
 3. Impact of the proposed closure on vehicular traffic such as circulation, traffic movements and availability of alternate routes for traffic;
 4. Conditions existing within the surrounding area that, when occurring in conjunction with a street closure, might create a hardship or an unnecessary inconvenience to the general public or persons residing in the area.
- B. The right of ingress and egress for every parcel of land must be maintained.
 - C. Standard barricades with "Street Closed" signs must be placed across the streets at each intersection of the designated closure. The permit tee will be held responsible for meeting this requirement. A responsible person should be available to remove the barricades if emergency access is necessary. The permit tee will be held responsible for removal of barricades and all other obstructions (placed in conjunction with the event) within 30 minutes of the approved conclusion of the street closure;
 - D. No obstacles shall be placed adjacent to any fire hydrant.
 - E. A fifteen (15) foot unobstructed roadway must be maintained along the closed sections of streets. The City will not authorize the prohibition of parking to meet this requirement;
 - F. Advisory signs (placed a minimum of two weeks prior to the event) are required. Advisory signs are intended to provide advanced notice to the regular users of a roadway of the scheduled closure.
 - G. Permittee shall make the necessary arrangements for notification of adjoining property owners.

SECTION 6

INSURANCE, INDEMNIFICATION, SURETY BOND, AND COSTS

SEC. 6.1 Property insurance.

- A. The applicant for a special event permit shall furnish the city official with a certificate of insurance complying with minimum standards sufficient to protect city-owned property.
- B. The city shall have the right to lower or waive the property insurance based upon the type of event, equipment, machinery, location, number of people involved and other pertinent factors or risks associated with the event.
- C. An applicant shall have the right to show cause why the insurance requirement should be reduced or waived, and to present such request to the city official. Upon receipt of such request, the city official shall consult with the city's risk manager or his designee. The city shall respond to an applicant's request for lower insurance or waiver within two (2) business days from date of request.

SEC. 6.2 Indemnification.

- A. The applicant for a special event permit shall sign an agreement to indemnify and hold harmless the city, its officers, employees, agents, and representatives against all claims of liability and causes of action resulting from injury or damage to persons or property arising out of the special event.

SEC. 6.3 Deposit Required.

- A. The permittee may be required to post a deposit in the assurance that the city property is

cleaned and returned to the condition prior to the event.

B. A deposit waiver may be applied for if:

1. The applicant has made specific arrangements for maintenance and clean up. Arrangements must be spelled out and included with permit application; or
2. The applicant (or group) has held an event in the past twenty-four (24) months without problems or citations.

C. The city council shall determine all deposit waiver requests.

D. The deposit shall be returned to the permittee within two (2) days after said permit expires upon certification by the city official that all conditions of this ordinance have been complied with.

SEC. 6.4 Fees/costs.

- A. Fees, other than cost for policing for the event, if any, as specified in this ordinance, shall be established by city council resolution.
- B. In the event the city determines, upon a review of the application, that a special event may require the special attention and involvement of the city personnel or facilities, the city shall so notify the applicant. In such event, prior to the issuance of a permit for a special event, the applicant and the city shall agree upon the cost of policing, and cleaning, and the closure of roads, and the applicant shall pay that amount to the city upon application. Prior to the issuance of a permit for a special event, the applicant shall agree in writing to pay any additional costs to the city incurred as a result of the special event within five (5) days of the date upon which the city informs the applicant of the amount of such additional costs.

SECTION 7 OFFENSES

SEC. 7.1 What constitutes penalty for violations of ordinance.

A. A person commits an offense if he:

1. Knowingly commences or holds a special event without a permit or with a permit that has expired or been revoked; or
2. Knowingly violates any terms or provisions of this article.

B. It is hereby determined that this ordinance governs fire safety and public health/safety and, therefore, any person, firm, corporation, or organization violating or failing to comply with any of the provisions of this ordinance shall be subject to the penalty as provided for in Section 8 of this ordinance.

SECTION 8 GENERAL PENALTY FOR VIOLATIONS

Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or Ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding Two Thousand Dollars (\$2,000.00) for violations of municipal ordinances that govern fire safety, sanitation (not including vegetation and litter violations), public health or as the Legislature may amend from time to time. For

traffic-related offenses and other violations not included in the classes enumerated above, the maximum permissible fine will be Five Hundred Dollars (\$500.00) or as the Legislature may amend from time to time. Further, that the above mentioned violations shall be subject to a minimum fine of One Hundred Dollars (\$100.00). PROVIDED, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. A culpable mental state is not required for the commission of an offense under this Code of Ordinances, unless the provision defining the conduct expressly requires a culpable mental state.

SECTION 9 VALIDITY

SEC. 9.1 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEC. 9.2 The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

SEC. 9.3 Severability Of Parts Of Code. It is hereby declared to be the intention of the Town of Bayside City Council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph, or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 10 EFFECTIVE DATE

This ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

Date Published in Official Newspaper February 26, 2009

Passed, ordained, approved and adopted this the 10th day of February 2009.

Attest:

Connie Canner

City secretary

By: Billy P. Frost

Mayor Town of Bayside, Texas