

ORDINANCE 1379

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO SPECIAL EVENTS; MAKING FINDINGS OF FACT; PROVIDING DEFINITIONS AND SPECIFICALLY DEFINING A SPECIAL EVENT TO BE BASED UPON THE CAPACITY OF THE EVENT VENUE, TRAFFIC CONGESTION OR MUNICIPAL RESOURCES REQUIRED TO ASSURE THE PUBLIC HEALTH AND SAFETY, AS MORE PARTICULARLY SET FORTH IN THE BODY OF THE ORDINANCE; CREATING A DUTY FOR PERSONS OWNING OR CONTROLLING PROPERTY ON WHICH A PERMITTED EVENT HAS EXCEEDED ITS LIMITS OR AN UNPERMITTED SPONTANEOUS SPECIAL EVENT HAS DEVELOPED, AS WELL AS PERSONS ENCOURAGING AN UNPERMITTED, SPONTANEOUS SPECIAL EVENT BY PROVIDING ENTERTAINMENT, TO MAKE EFFORTS TO REDUCE THE ACTIVITY OR EXCESS AND AUTHORIZING THE CHIEF OF POLICE TO APPROVE ACTIONS TO CONTROL OR REDUCE THE EVENT AS APPROPRIATE; REVISING THE NATURE OR ELEMENTS OF THE PLAN TO BE SUBMITTED WITH AN APPLICATION FOR A SPECIAL EVENT; ESTABLISHING A SCHEDULE BY WHICH FEES AND APPLICATIONS SHALL BE SUBMITTED TO THE CITY FOR REVIEW; REQUIRING A PRE-PERMIT CONFERENCE, OR ALTERNATIVE, FOR LARGE EVENTS AND PROVIDING FOR A MUNICIPAL SERVICES FEE; SPECIFYING THE SOLE GROUNDS UPON WHICH A PERMIT MAY BE DENIED; SPECIFYING TIMELINES FOR CITY ACTION ON A PERMIT; PROVIDING APPLICANT'S RIGHT TO APPEAL DENIAL OF A PERMIT OR THE SERVICES INCLUDED AND THE AMOUNT OF THE MUNICIPAL SERVICES FEE REQUESTED BY THE CITY; LIMITING THE NUMBER OF SPECIAL EVENTS WHICH MAY OCCUR ON ANY ONE DAY ON THE SANDY GULF BEACH; PROVIDING FOR ENFORCEMENT AND CIVIL AS WELL AS SEPARATE CRIMINAL PENALTIES; PROVIDING FOR SEVERABILITY AND REMEDIAL PURPOSE; REPEALING AND SUPERSEDING ARTICLE II OF CHAPTER 4 OF THE CITY CODE, AS ADOPTED BY ORDINANCE 1359, RELATING TO SPECIAL EVENTS, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, all special events share one element in common: an assembly of people; and

WHEREAS, the City is an extremely active tourist destination which attracts large numbers of visitors who reside elsewhere and quite naturally and frequently are less inhibited in their conduct than they are at home, a fact recognized by the State of Florida, Department of Commerce in its 1980's advertising slogan "The Rules Are Different Here"; and

WHEREAS, the City Council finds, and common sense dictates, that tourists often have no obligatory plans and, in fact, are looking for something fun to do, a fact recognized by the Bay County Tourist Development Council's current slogan "Real. Fun. Beach."; and

WHEREAS, the presence of large numbers of relatively uninhibited people looking for something fun to do is fertile ground for an assembly of people relatively unrestrained by the conventions they would feel at home; and

WHEREAS, any assembly of a large number of people, especially uninhibited people looking for something to do without any immediate obligations, will create circumstances contrary to the health, safety and welfare of the persons assembled and the community as a whole if adequate preparation for the event is not made and executed; and

WHEREAS, adequate preparation requires notice and an opportunity to organize resources, and for large events, the contribution of additional resources; and

WHEREAS, in 2007 and before, the City began to study the need to regulate special events held within the city by commercial promoters attracting crowds of people which, on the one hand, is good for the tourism economy of the City and Bay County, especially when overnight guests attend, but on the other hand places a strain on the limited resources of the City to protect persons and property by policing the event, policing the off-site activities of the local and visiting attendees which inevitably accompany such events, and to control event related traffic, sometimes away from the site; and

WHEREAS, the City found that it was necessary and fair to require the commercial producer and promoter of a special event to secure the safety of the crowd they assembled by providing at their expense qualified security and traffic control personnel and competent municipal type resources such as garbage and trash removal, medical facilities on-site and emergency medical transport readily available as well as sanitation facilities; and

WHEREAS, the City adopted an ordinance regulating the conduct of special events through a permitting process requiring the producer of the event to demonstrate credible plans to provide event security, municipal type services and event traffic control and to faithfully execute those plans upon penalty of the city closing the event (the "Special Event Ordinance"); and

WHEREAS, the Special Event Ordinance in essence required the event producer to think through the needs and effects of the event assembly and give the city the information and time required to coordinate its public safety efforts to accommodate the event and, with adjustments for lessons learned along the way, the Special Event Ordinance has met those purposes; and

WHEREAS, in 2014 the Special Event Ordinance was amended to address entertainment on the sandy gulf beach as a special event, requiring the producer to demonstrate credible plans to address the same assembly issues as interior events plus, other issues unique to the sandy beach, but still focused upon commercially produced, planned events, either short term events or events continuing back-to-back through the season to entertain the constant turn-over of visitors on the sandy beach; and

WHEREAS, the City Council finds that the requirements of the Special Event Ordinance did not diminish the production of events, but in fact improved them and assisted novice event producers; and

WHEREAS, the City Council finds that the predominate business and commerce of the City, and the basis of its revenue (the City being without an ad valorem tax) is tourism and that special events are a critical and positive component of that tourism, and the City Council declares its intent to continue to support and encourage special events of all types but determines that additional rules are necessary to curb the adverse, secondary effects of events which mushroom beyond the capacity of their venue and logistical support; and

WHEREAS, the City acknowledges that the permit requirements of the Special Event Ordinance, as amended here, can be easily argued to affect lawful assemblies and speech and therefor the city has established reasonable time frames adjusted for the size and complexity of the assembly, to consider and respond to the request for a permit and prompt notice and appeal rights in the event an application is denied; and

WHEREAS, the City Council acknowledges that the ways in which the Special Event Ordinance has been and will be applied are the best evidence of the City's commitment to special events and to the rights of the event organizers and event participants to assemble, and finds that, to date, there have been no complaints that staff has applied the existing ordinance unfairly; and

WHEREAS, to date the Special Event Ordinance has primarily focused upon planned events; and

WHEREAS, the City Council finds and determines that the advent and virtually universal spread of social media through the demographic of visitors to Panama City Beach has, in just the past two years, caused special event type entertainment assemblies to be commercially produced and promoted very quickly and in hastily created or converted venues with little or no notice or adequate private or public planning and

provision for security, crowd control, traffic control and parking, and in some cases these events have spontaneously occurred with no accountable producer or any planning or preparation (Pop-Up Events); and

WHEREAS, the City Council finds and determines that both commercial Pop-Up Events (with an identifiable producer) and spontaneous Pop-Up Events are contrary to the health, safety and welfare of the community due to the lack of internal planning and control, and notice to the City to permit external planning and protection; and

WHEREAS, the City Council also finds and determines that the lack of internal and external planning and control of Pop-Up Events creates secondary effects that frequently become a public and private nuisance, including by way of example and not limitation, traffic congestion, pedestrian trespass, vehicular trespass, illegal parking, illegal drug and alcohol use, violence and other breaches of the peace, especially where a large crowd of pedestrians and even vehicles are held waiting outside a venue that is at capacity or attempt to access a venue that has essentially unlimited access; and

WHEREAS, the City Council also finds and determines that commercial Pop-Up Events will continue and, in fact, increase and that the producers of these events should be required to think through the needs and effects of the event assembly and give the city the information and time required to coordinate its public safety efforts to accommodate the attendees, just as traditional special events which in the past were publicized and promoted through slower and more predictable media; and

WHEREAS, the City Council recognizes that spontaneous Pop-Up Events in a non-commercial venue present a more difficult issue in a free society because they are, in fact, a spontaneous assembly which is the right of a free people, but the City Council also finds and determines that when such an assembly begins to create the same adverse effects which are attendant to an unregulated traditional special event, that is such things as neighborhood trespass of persons or vehicles, illegal parking, traffic congestion, frequent or repeated violations of the law facilitated by the anonymity of the crowd, a need for sanitation facilities, etc., then it is reasonable and lawful to place upon the owner or person in control of the venue, after notice, the duty under penalty of law to do all that he or she can reasonably do to bring the event under or within the threshold limits of the criteria which caused the assembly to become problematic; and

WHEREAS, the City Council finds and determines that the placing upon the owner or person in control of a non-commercial venue where a spontaneous special event occurs the duty to do all they reasonably can to bring the assembly under control will create a needed incentive for owners to pay attention to their property and be alert to not allowing assemblies upon their property to get out of control in the first place; and

WHEREAS, the City Council also finds and determines that the City has experienced an entirely new Pop-Up Event phenomenon, that is, a spontaneous special event “organized” through social media with no accountable producer or promoter, but still generating the same types of needs and effects as a traditional special event, albeit so

far on a smaller scale; these Pop-Up Events include by way of example and not limitation, “open” house parties (no invitation required); “pay-party” house parties (no invitation required, leave money at the door) and large beach assemblies with amplified music; and

WHEREAS, the City Council also finds and determines that the variety, uniqueness, innovation and timing of modern special event assemblies, some commercially promoted and others spontaneously occurring and all frequently publicized and promoted through instantaneous social media as well as traditional media, require the City to adopt a more flexible and commonsense approach to defining and determining what is a special event; and

WHEREAS, the City Council has received and considered extensive testimony from the public, from promoters and producers of special events and from staff, including the Fire Marshall, the Chief of Police and the City Manager, regarding what should be considered a special event and the issues and opportunities for mischief accompanying them, and moreover, the Council members have personally witnessed virtually all of these issues from time to time and find that the testimony presented in support of this ordinance is consistent with their own, first-hand experience; and

WHEREAS, by this ordinance, based upon that testimony and experience, the City Council intends to establish specific criteria defining and determining what should be considered a special event under the totality of the circumstances at hand and to authorize staff to apply that criteria in each specific case; and

WHEREAS, the City has attempted in the past to define special events based primarily upon anticipated attendance and found that method to be unreliable sometimes in the age of social media; and

WHEREAS, the City Council is aware of the inalienable right of citizens in a free state to assemble peacefully and without creating a public nuisance, and to speak and entertain freely, but expressly finds that the type of assemblies that will trigger the application of this ordinance create a real and imminent threat to the health, safety and welfare of the event patrons as well as the community if the notice, planning, preparation, services and control required by this ordinance is not provided, and based upon years of experience the City finds that there is no less intrusive way of handling the situation in the extremely active tourist environment of the City, so to borrow from Mr. Justice Holmes, “Upon this point a page of history is worth a volume of logic.” *N.Y. Trust Co. v. Eisner*, 256 U.S. 345, 349 (1941) and the City has been working with special events for several decades, regulating them for the last; and

WHEREAS, the City Council is aware that the authority given staff to interpret and apply the specific criteria established in this ordinance in order that the City may timely consider the totality of the circumstances in each unique case, may be argued to invite arbitrary or capricious chilling of the rights of free speech or assembly but, Justice Holmes again, “Great constitutional provisions must be administered with caution. Some

play must be allowed in the joints of the [government] machine.” *Missouri, K.&T. Ry. Co. of Texas v. May*, 24 S. Ct. 638 (1904); and

WHEREAS, the City finds and determines it necessary to update and amend the Special Events Ordinance to better regulate traditionally produced and marketed special events and to add Pop-Up Events because, without these amendments, events will overrun the current law; and

WHEREAS, the City Council finds and determines that this ordinance will promote the public good by establishing necessary standards to define special events in the digital age, to create incentives and mechanisms to promote the public welfare by fostering preparation for, and curbing the excesses of, assemblies which by these same standards become events needing some level of support and control to protect persons and property, and therefore that, although this ordinance contains penalties, it is adopted for a remedial purpose and if challenged should nonetheless be given an equitable construction in order to achieve the clear remedial purposes determined by the legislative Council. *N. Securities Co. v. US*, 24 S. Ct. 436 (1904); and

WHEREAS, the City Council recognizes that the provisions of this ordinance are somewhat complex and interrelated by the definitions employed and the form by which the ordinance is structured, but also finds that the events and assemblies upon which the substance of this ordinance applies are quite varied and must be considered several and not interdependent, so that if this ordinance is found to be unenforceable, in whole or in part, against one or more classes of events or assemblies, the remainder may easily be left in force, and should be left in force for the public good.

WHEREAS, by Ordinance 1359 adopted on October 8, 2015, the City revised its special events ordinance to address spontaneous, unpermitted events in addition to planned events, and now desires to reorganize and streamline that law and those processes.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. The forgoing recitals are incorporated as legislative findings of fact.

SECTION 2. From and after the effective date of this ordinance, Art II of Chapter 4 of the Code of Ordinances of the City of Panama City Beach entitled “Special Events” as amended and adopted by Ordinance 1359 is hereby repealed and superseded by this ordinance. In addition, all other ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3. From and after the effective date of this ordinance, Article II of Chapter 4 of the Code of Ordinances of the City of Panama City Beach, entitled “Special Events” is adopted to read as follows:

ARTICLE II. SPECIAL EVENTS

- Sec. 4-16. Definition.
- Sec. 4-17. Permit required; purpose.
- Sec. 4-18. Suspension of Permit; remedy of excesses.
- Sec. 4-19. Spontaneous unpermitted events.
- Sec. 4-20. Application for permit.
- Sec. 4-21. Application fee and municipal services fee.
- Sec. 4-22. Additional information.
- Sec. 4-23. Action on the application and appeal.
- Sec. 4-24. Posting vendor contacts.
- Sec. 4-25. Limitation of sandy beach events on the same day.
- Sec. 4.26. Enforcement and Penalties
- Sec. 4-27. Remedial purpose and severability.
- Sec. 4-28-29. Reserved.

Sec. 4-16. Definitions.

The term “event venue” shall mean any contiguous or connected area (improved or unimproved or both and including parcels separated by a street or other public way but coordinated as a whole for the event) under common or coordinated control and used for a special event. An event venue may consist of one or more patron gathering spaces, in particular indoor and outdoor spaces but also other types of spaces with different occupancy limits.

The term “sandy gulf beach” shall mean all loose or uncompacted sandy areas, including sand dunes and vegetated areas, lying between the waters of the Gulf of Mexico and the seaward boundary of the seaward most public, vehicular right of way.

The term “special event” shall mean any assembly of persons which also meets one or more of the following six criteria. Each of the first three criteria define a planned event. Each of the last three criteria define a “pop-up” event.

- (a) ATTENDANCE ANTICIPATED TO EXCEED VENUE CAPACITY (Planned event). It is reasonably anticipated that the number of persons who will attempt to attend the event at any point in time will exceed the number of persons permitted within the event venue. Event venue capacity shall be the aggregate of the capacity of all patron gathering spaces within the venue. The capacity of each gathering space shall be determined (i) by building or life safety code or other law

applicable to that space, and (ii) for each other space at the rate of one person for every seven (7) square feet of horizontal space. Parking lots and driveways and pedestrian ingress and egress routes used as such during the event shall not be considered gathering spaces.

(b) VEHICLE PARKING ANTICIPATED TO EXCEED ON-SITE CAPACITY (Planned event). It is reasonably anticipated that the number of persons anticipated to attend the event by vehicle will exceed on-site event parking based upon an average factor of 5 persons per vehicle.

(c) MUNICIPAL RESOURCES ANTICIPATED TO BE REQUIRED (Planned event). The gathering is reasonably anticipated to require for its safe and successful execution the provision or coordination of municipal services by the City or by the event producer to a material degree above that which the City routinely provides under ordinary, everyday circumstances. Municipal services include, but are not limited to fire and police protection, crowd control, traffic control, parking control, street closure, emergency medical services, garbage or trash facilities or clean-up and sanitation facilities (herein "municipal services:").

(d) ACTUAL ATTENDANCE EXCEEDS CAPACITY OF THE VENUE (Pop-up Event). The number of persons attending and attempting to attend an unpermitted assembly of persons exceeds at any point in time the number of persons permitted within the event venue or within any gathering space within the event venue.

(e) ACTUAL VEHICLE CONGESTION (Pop-up Event). The number of vehicles actually parked and attempting to park to permit the occupants to join an unpermitted assembly exceeds at any point in time on-site parking available.

(f) MUNICIPAL RESOURCES ACTUALLY REQUIRED (Pop-up Event). The municipal services required for an unpermitted assembly exceed at any point in time the level of municipal services typically available from the City for that time and season after taking into consideration the similar, municipal-type services provided by the person or persons, if any, encouraging the assembly.

All special events are divided into three classes:

(a) A "small event" being an event with an anticipated, maximum attendance at any point in time of 500 persons or less.

(b) A "medium event" being an event with an anticipated, maximum attendance at any point in time of more than five hundred 500 but less than 5,000 persons.

(c) A "large event" being an event with an anticipated, maximum attendance at any point in time exceeding 5,000 persons.

A parade held on a public street or road and lasting no more than two (2) hours is not, without more, a special event.

Any planned event to be held in any part on the sandy gulf beach is presumed to be a special event. This presumption can be rebutted only by the event producer providing clear and convincing evidence that, based upon the nature, location, time and season of the event it is almost certain that the event will not draw a spontaneous crowd in excess

one person for every seven (7) square feet of sandy gulf beach controlled by the producer.

Sec. 4-17. Permit required; purpose.

No person or entity shall organize, stage, promote or conduct any special event as defined by 4-16(a), (b), or (c), without holding a valid special event permit granted by the City Manager under this Chapter. The purpose of this law is to ensure that special events do not endanger public health or safety and to permit the City to understand and prepare for known collateral and secondary effects of special events in the community. The permitting process is not intended to control or regulate special events based on their content, the nature or type of speech involved, or any speaker's viewpoint.

Sec. 4-18. Suspension of permit; remedy of excesses (Planned events).

(1) Each plan included in the special event application, and any conditions imposed by the City Manager pursuant to sec. 4-23(5), shall be continuously implemented during the special event, and any failure to do so shall result in the automatic suspension of the permit and suspension of the event until full implementation is made.

(2) Should the actual attendance in the event venue or any gathering space within the event venue and including persons attempting to enter the event, or the actual number of vehicles or the municipal services actually required at a permitted event exceed for a period of one (1) hour the number or level anticipated by the application and permit, it shall become the duty of all persons owning or able to control the event or the event venue to take reasonable, diligent, and constant measures to reduce the excess until achieved. The failure of any such person to immediately, after notice from the City, make a reasonable, diligent and constant effort to reduce the excess shall be a violation of this law punishable by civil penalties specified in this Article and criminal penalties specified in City Code sec. 1-12.. The Chief of Police or his designee is authorized to approve actions to partially or slowly reduce the excess as compliance if he or she finds (i) that such person is acting in good faith after notice of the excess, (ii) that full and immediate elimination of the excess will not be feasible and (iii) that it would be safer to taper down the event rather than to abruptly close the venue or stop the event.

(3) Conversely, should actual attendance fall below the permit estimates for a sustained period and appear likely to continue at reduced levels, the City Manager or his designee shall be authorized, but not required, to allow the applicant to reduce staffing to the minimums reasonably required.

Sec. 4-19. Spontaneous Unpermitted Assembly (Pop-up events).

The City has found and determined that some special events occur spontaneously, without a permit, especially if attendance is promoted through instantaneous, social media.

(1) If an assembly develops into a special event spontaneously (and therefore without a permit) in either a commercial or non-commercial venue, it shall become the duty of all persons or entities owning or able to control the event venue or who is providing entertainment encouraging the assembly, to take reasonable, diligent and constant measures to reduce the activity or circumstances which caused the assembly to become a special event - that is for example but not limited to, reducing occupancy to the permitted capacity of the venue or providing transportation to eliminate off-site parking or

vehicular or pedestrian congestion, or to provide the additional municipal type services needed to regulate event traffic, maintain the peace and protect the public health and safety. The failure of any such person or entity to immediately after notice from the city make a reasonable, diligent and constant effort to reduce the event below the applicable criteria threshold shall be a violation of this law punishable by civil penalties specified in this Article and criminal penalties specified in City Code sec. 1-12. The Chief of Police or his designee is authorized to approve actions to partially or slowly reduce the event below the applicable criteria threshold as compliance if he or she finds (i) that such person is acting expeditiously and reasonably to employ feasibly available resources to address the issues after notice that the assembly has become a special event, (ii) that full reduction to the criteria threshold will not be feasible and (iii) that it would be safer to taper down the event rather than to abruptly close the venue or stop the event.

(2) Whether a spontaneous assembly has developed into a special event based upon attendance, vehicle congestion or a need for municipal services (as those services are defined in this Article), or any combination of those three, shall be determined by an objective and reasonable examination of the totality of the circumstances at hand, including but not limited to the following factors:

- a) With respect to attendance and attempted attendance:
 - (i) The size of the venue.
 - (ii) Whether the attendance is ticketed.
 - (iii) Actual attendance at prior, similar events.
 - (iv) The extent of commercial promotion and advertisement of the event, especially promotion outside of Bay County, by traditional or digital means, but excluding spontaneous social media not initiated, encouraged or orchestrated by a commercial event producer or any person acting on behalf of the event producer or any person with a financial or other personal interest in the event ("spontaneous social media").
 - (v) The extent of spontaneous social media encouraging attendance at the assembly.
 - (vi) Whether the location and configuration of the venue, and the nature and presence (sight and sound) of the event, will be likely to draw attendees or observers from the public at large.
 - (vii) The number in attendance and attempting to attend shall be determined by the Chief of Police or his designee using recognized or previously established law enforcement estimating techniques.
- b) With respect to actual vehicle congestion, the number of vehicles parked shall be counted, and the number attempting to park shall be determined by the Chief of Police or his designee using recognized or previously established law enforcement estimating techniques.
- c) With respect to municipal services actually required:

- (i) Repeated pedestrian trespass.
- (ii) Repeated vehicular trespass.
- (iii) Illegal parking.
- (iv) Traffic congestion.
- (v) Apparent need for sanitation facilities as evidenced by public urination or other bodily functions.
- (vi) Repeated and flagrant instances of illegal activity.
- (vii) Repeated noise ordinance violations after notice, including differing offenders.
- (viii) Unusual amount of trash being abandoned with no apparent resources available to clean up after event.
- (ix) Unusual or repeated need for medical assistance.

Sec. 4-20. Application for permit.

1. Each application for a special event permit required by this Article shall contain the information described below and must be filed, and the permit fee paid, no less than the following number of days before the opening of the event to the public:
 - a) 60 calendar days for a large event or for a medium event to be held in whole or in part during the month of March, Memorial Day weekend, 4th of July and its closest weekend or Labor Day weekend.
 - b) 30 calendar days for a medium event other than at the above times.
 - c) 20 calendar days for a small event.

Notwithstanding the forgoing, the City Manager shall accept a tardy application and if (i) City staff has the capacity to conduct an ordinary review of the application without causing material neglect of other staff duties or, (ii) the event promoter stands willing and able to pay and deposits a sum of money to cover any overtime for City staff to conduct an ordinary review of the application, and staff volunteers such overtime, then the City will use reasonable efforts to process a tardy application in time to allow the event to be held. Applications shall be reviewed in the order received and priority shall be given to timely filed applications.

2. All applications for a permit under this Article must contain:
 - a) The name and address of the applicant and if not a natural person the names and addresses of all persons controlling or owning greater than a five (5) percent interest in the applicant or a parent company of the applicant.

- b) The dates and times of the event.
- c) A list of the names and addresses of all vendors, independent contractors or other persons or firms which will be engaged by or associated with the applicant to offer goods or services during the special event, including a description of the goods and services offered by each and the name and address of the person who will have on-site responsibility, if different. The names and addresses of such persons shall be used only for the purposes of (i) identifying the source of good or services after the event, if necessary, (ii) allowing the City to collect all business license taxes due, and (iii) contacting such persons or firms as necessary in the normal course of City business. The information may not be used to grant or deny a permit. Should such a list not be available at the time application is made, applicant shall give a written statement to that effect and agreeing to furnish such a list no later than thirty-six (36) hours before the event and acknowledging that failure to timely provide such a list will result in termination of the special event permit.
- d) The names and addresses of all entertainers. This information shall be used for the sole purpose of the City, first, investigating whether sufficient adverse secondary effects have accompanied the entertainer's performance(s) at past performances to raise an objective and reasonable concern that a performance at the event could require planning for and provision of extraordinary municipal services and precautions due to a special or enhanced danger to public health, safety or welfare, and then, second, to allow the City to contact such entertainers as necessary in the normal course of City business.
- e) Whether (i) patrons will be permitted to bring alcoholic beverages into the event (herein a "coolers event"), or (ii) patrons will not be permitted to bring alcoholic beverages into the event but patrons will be offered alcoholic beverages within the event (herein an "alcohol sales event"), or (iii) alcoholic beverages will be prohibited within the event (herein a "no alcohol event").
- f) An estimate of the largest number of persons anticipated to be in attendance in the event venue at any point in time, a statement as to how such attendance was estimated (*i.e.*, such as historical events, ticket sales, *etc.*), and a plan for: (i) determining the actual number of persons in attendance at the event venue as the event progresses; (ii) keeping the City informed in real time of that number; and (iii) a plan to manage and control or disburse the persons desiring to enter the event after capacity is reached. The name, address, telephone number and a description of any prior experience in estimating attendance at previous events shall be included for all persons participating in the attendance estimation.
- g) A plan for sanitation facilities and sewage, garbage and litter collection and disposal (during and after the event) generated by the event or by its patrons (wherever such garbage or litter may be located), water supply and food service. A plan submitted under this section is presumptively a danger to public health and safety if it violates, any rules promulgated by

the Department of Health or other executive department pursuant to F.S. Ch. 381 (Public Health), F.S. Ch. 386 (Sanitary Nuisances), F.S. Ch. 509 (Food Service), or similar laws.

- h) A plan for flood-lighting the special event and parking areas if any activities are to be offered during darkness.
- i) A plan for parking facilities and plans for transporting or conducting patrons from said facilities to the special event venue.
- j) A plan for the provision of security, on site and off site traffic control, communications, fire protection and emergency services, including ambulance service, and emergency vehicle access in and around the event venue, and the general background of the training and ability of the personnel to be used in implementing the plan.
 - (i) A traffic control plan submitted under this section is presumptively a danger to public health and safety if it does not provide for at least one (1) person professionally trained or experienced in vehicular traffic control for every five hundred (500) anticipated, maximum attendees to actively guide traffic during the event.
 - (ii) A security plan submitted under this section is presumptively a danger to public health and safety if it does not provide for the following on site security officers to work the event:
 - (a) for a "cooler event" at least five (5) persons on duty for every one thousand (1,000) attendees or portion thereof who shall be certified law enforcement officers , licensed security guards under F.S. Ch. 493 (Class "D" or better), or in-house security professionally trained according to recognized standards;
 - (b) for an "alcohol sales event" at least three (3) persons on duty for every one thousand (1,000) attendees or portion thereof who shall be certified law enforcement officers, licensed security guards under F.S. Ch. 493 (Class "D" or better), or in-house security professionally trained according to recognized;
 - (c) for a "no alcohol event" at least at least one (1) person for every one thousand (1,000) attendees or portion thereof who shall be a certified law enforcement officer, a licensed security guard under F.S. Ch. 493 (Class "D" or better), or in-house security professionally trained according to recognized standards.

The City Manager may approve a plan that does not meet this staffing criteria if it is reasonably shown that public health and safety can be secured through alternative means or that such staffing is not reasonably required for the proposed event, or alternatively the City Manager may require additional staffing

reasonably shown to be required to secure the public health and safety during the proposed event.

A security plan submitted under this section is presumptively a danger to public health and safety if it does not prohibit security and traffic control personnel from working more than one (1) twelve (12) hour shift in any twenty-four (24) hour period.

k) A plan for medical services to be provided at the special event. A medical services plan submitted under this section is presumptively a danger to public health and safety if it does not prohibit medical personnel from working more than one (1) twelve (12) hour shift in any twenty-four (24) hour period. A medical services plan presumptively presents a danger to public safety or health if it does not provide for the following on site professionals to work the event:

(i) For a small event: none.

(ii) For a medium event: two (2) Emergency Medical Technicians ("EMTs"), paramedics, or other professionals with equivalent (or higher) medical training.

(iii) For a large event: two (2) EMTs, paramedics or other professionals with equivalent (or higher) medical training, plus an additional two (2) such persons for each eight thousand (8,000) anticipated maximum attendees, or portion thereof, over five thousand (5,000) anticipated maximum attendees.

The City Manager may approve a plan that does not meet this staffing criteria if it is reasonably shown that public health and safety can be secured through alternative means or that such staffing is not reasonably required for the proposed event.

The forgoing presumption is intended to address an event presenting a moderate hazard. The staffing guidelines set forth above may be decreased or increased as may be reasonably required to secure the public health and safety during the event depending upon whether the event objectively presents a lower or higher hazard. By way of illustration, the staffing guidelines set forth above are intended for moderate hazard events which include, but are not limited to, concerts, carnivals and fairs. Similarly, low hazard events include, but are not limited to, car shows, flea markets, local festivals, craft shows, local sporting events, and organized sporting tournaments. High hazard events include, but are not limited to, an event with stunts or having the potential for special danger to participants or spectators, or the potential for sustained exposure to extreme ambient temperatures. A low or moderate event may present a higher hazard due to extreme temperatures. Higher hazard events may be required to provide an Advanced Life Support Unit with transport capability. Staffing shall be equipped with customary supplies necessary to treat injuries and illnesses commonly associated with outdoor activities or similar events.

- l) A plan for assuring that all stages, booths, tents, scaffoldings or structures of any kind on, under or within which persons may congregate, will conform to applicable building and construction codes in effect within the City, and that any entertainment stage erected on the sandy beach in connection with a special event will be guarded by a certified law enforcement officer, a licensed security guard under F.S. Ch. 493 (Class "D" or better), or an in-house security professionally trained according to recognized standards and authorized and instructed to prevent unsafe, public use or activity on or about the stage twenty-four (24) hours a day, seven (7) days a week.
- m) A site plan showing the location and size of the event venue and all parking areas (including required handicap parking), and the location of all other features required by this section. For a sandy beach event, the site plan shall show a cleared east/west corridor on the sandy beach outside the event venue adequate to permit the one-way passage of an emergency vehicle, and a cleared east/west pedestrian corridor at and above the wet sand at the water's edge at least twenty five (25) feet wide.
- n) A plan to provide and control safe pedestrian access between parking area(s) and the event venue which will minimize adverse impacts upon surrounding properties and businesses. For a sandy beach event a plan to keep the east/west emergency vehicle corridor and the waterfront pedestrian corridor open for traffic at all times must be provided.
- o) A plan to deal with persons congregating outside the event in public right of ways either seeking entry to the event or attracted to the event should the number of such numbers call for municipal services to a degree above that which the City routinely provided under ordinary, everyday circumstances.
- p) A plan to enclose, restrict or control access to all parking at the event venue and to limit the number of persons within the event venue to the maximum number anticipated, and a contingency plan to deal with persons in excess of that number to minimize adverse impacts upon surrounding properties and businesses.
- q) For a medium or large event held in any part on the sandy gulf beach, plans demonstrating that the event space on the sandy beach event venue will be enclosed on all sides by fences or other structures adequate to prevent access to the event at any point other than controlled access gates, and also demonstrating adequate egress facilities and routes to clear the event venue in case of an emergency. If any entertainment or activity is provided for the event which is reasonably likely to attract a crowd outside the event venue, the fences or other structures shall be opaque and a minimum of six (6) feet high so as to prevent persons standing on ground level outside the fence or event venue from viewing the entertainment; except that in lieu of a six (6) foot opaque fence on the gulf water side there may be substituted two parallel fences each a minimum of four (4) feet high lying parallel to the gulf water's edge and no less than ten (10) feet apart.

- r) During sea turtle nesting season, a plan for the fences to be removed from the beach daily before 9:00 pm and not replaced until after the beach has been inspected for turtle nests the next morning.
- s) For a large event out of doors, a plan to provide sufficient elevated viewing platforms to permit event security and, upon request, City police to oversee the crowd and be able to identify and respond to a disturbance or unusual activity before it escalates.
- t) A list of all live animals to be used in connection with the event and a plan for the care and safe keeping of such animals.
- u) For medium events, a cash deposit in the amount of two thousand dollars (\$2,000.00) or one thousand dollars (\$1,000.00) per day, whichever is greater, but not to exceed five thousand dollars (\$5,000.00). For large events, a cash deposit in the amount of three thousand dollars (\$3,000.00) or one thousand five-hundred dollars (\$1,500.00) per day, whichever is greater, but not to exceed six thousand dollars (\$6,000.00). The return of such deposit, in whole or in part, shall be conditioned upon the applicant timely and completely performing all of the plans submitted with the application or reimbursing the City for all direct and indirect costs incurred to protect public or private health, safety or welfare in the absence of such performance or to pay the City any rent due the City for the use of city facilities in the event. In the event any such cost shall exceed the amount of the deposit, the applicant shall be liable to the City for such excess to the extent permitted by law.
- v) The plans required by this Article are designed to allow the City to evaluate and assure that the proposed event will not pose an unreasonable danger to public health and safety and will not excessively burden municipal resources without adequate planning so as to create such a danger. Any plan submitted hereunder is presumptively a danger to public health and safety if it does not (i) include evidence that the applicant is reasonably qualified, experienced and capable of executing the plan alone, or written commitments from one or more qualified, experienced and capable third parties promising to execute or assist the applicant in executing the plan and acknowledging that the commitment is being made to induce the City to issue a permit for the event, and (ii) demonstrate that it is reasonably capable of being executed through the equipment, personnel and processes specified in it, and (iii) demonstrate that it will be reasonably effective to protect the public from the health or safety risks it is intended to address.
- w) The City Manager may waive any requirement herein if it is reasonably shown that public health and safety can be secured through alternative means or that such a plan is not reasonably required for the proposed event.

Sec. 4-21. Application fee and municipal services fee.

(1) Application for a special event permit shall be accompanied by one of the following applicable fees for administrative expenses incurred in evaluating and processing the application:

- (i) For small event, \$50.00.
- (ii) For a medium event, \$225.00
- (iii) For a large event, \$350.00.

If an event permit for a large event wholly or partially on the sandy beach is not issued due to other such sandy beach event(s) occurring on the same calendar day the application fee shall be refunded. In the event the City Council shall find that the event will serve a charitable, public and non-religious purpose, it may by resolution waive or lower the application or City services fee, or both, by appropriating general revenue funds to be applied to the fee.

(2) As part of the City's administrative review of an application for a large event permit, the City shall determine the municipal services needed as a direct result of the event and not as a duty to the public generally, together with any municipal services requested by the applicant, and their respective costs, and shall prepare an itemization of the services and their cost (the municipal services fee). The purpose of the municipal services fee is to place upon a large event the marginal cost of providing municipal services which are reasonably necessary to directly support the event.

(3) The level of municipal services required shall be determined by an objective, reasonable examination of the totality of the circumstances, including but not limited to the following factors:

- (i) The size of the event venue and the anticipated attendance.
- (ii) The location of the event to determine the potential for pedestrian and vehicular congestion.
- (iii) The nature of the event, the activities planned during it and the weather conditions of the season to evaluate the danger of harm to persons and property such as a fireworks explosion, a collision of participants or spectators, spectator or participant heatstroke, drowning, and the like.
- (iv) The historical density of visitors to the beaches during the annual season of the event and the type of activities, safe and unsafe, in which those visitors have historically engaged.
- (v) Whether the event venue is specifically designed and staffed to handle the anticipated needs and effects of the anticipated number of attendees.

(4) The City Manager or his or her designee shall promptly provide the applicant a copy of the itemization and amount of the municipal services fee and attempt to schedule or arrange a pre-permit conference with the applicant, or other means of communication between the city and the applicant as may be suggested by the applicant, in order to discuss the conduct of the event, the coordination of public and private resources and the level of municipal services required and the amount of the municipal services fee. It shall be the Applicant's duty to attend the pre-permit

meeting at a day and time convenient for City staff, or to request an alternative to the pre-permit meeting and the City Manager shall allow the request if it is reasonable and practical to do so.

- (5) If the applicant does not accept the type and extent of municipal services listed and the amount of the municipal services fee, the City shall nonetheless proceed in ordinary course to complete the application process and either deny the permit through the process contained in this Article without consideration of the applicant's objection to the fee, or if the applicant is entitled to the permit then grant the permit upon the condition that the municipal services fee be paid before the permit becomes valid or effective. The applicant shall have the right to appeal to the City Council the type and extent of services required and the amount of the fee by letter filed with the City Clerk within three (3) business days after the City shall provide the applicant the itemization and amount of the fee which notice shall state that the applicant may appeal within three business days. The City Council shall uphold or lessen the fee based upon information about the extent of services to be rendered by the City directly related to the event and the cost of those services as presented by City Manager or his designee and the applicant in a *de novo*, quasi-judicial hearing held as soon as may be practicable. The City Council's decision, including its reasons therefore, shall be announced at the conclusion of the hearing and entered onto the record thereof which shall constitute the Council's final order in any subsequent proceedings. The hearing may be continued from time to time in the sole discretion of the City Council. If the City Council is unable to timely conduct or conclude the hearing in time for the event to be held pursuant to an otherwise valid permit, the applicant may pay to the City the disputed fee under protest, and the permit shall become effective so that the event may be held, in which case the hearing shall be held and concluded after the event at a mutually convenient time. If the fee is upheld, it shall be accepted by the City; if it is reduced the reduction shall be refunded to the applicant.

Sec. 4-22. Additional information.

Before denying a permit or conditioning a permit upon things not included in the application or agreed to by the applicant, the City Manager or his designee shall give the applicant written notice of the deficiencies in the application or the need to add conditions to the permit and provide the applicant an opportunity to present additional written information addressing those deficiencies or needs. The City Manager shall make a reasonable effort to facilitate the applicant's addressing the deficiencies in time to hold the event, but also taking into consideration the city's resources and other matters at hand.

Sec. 4-23. Action on the application and appeal.

- (1) The City Manager must decide to grant or deny an application at the earliest possible time after receipt.
- (2) The City Manager may deny a permit only on one or more of the following grounds:
 - a. The permit application is incomplete; a complete application is one that provides all the information or items required by this Article regardless of the sufficiency of the information or item.

- b. The application fee has not been paid;
 - c. The proposed event is unlawful;
 - d. The proposed event exceeds the maximum number of allowed sandy beach events as provided by sec. 4-25 of this Article;
 - e. The application contains a material falsehood or misrepresentation;
 - f. It reasonably appears that the proposed event will present a clear and present danger to the public safety or health;
 - g. The proposed event is of such a nature or duration that it cannot be reasonably accommodated in the particular venue applied for; or
 - h. The applicant has refused to attend or participate in good faith in a pre-permit meeting requested by the City Manager following reasonable notice and scheduling attempts by the City Manager and failed to propose reasonable alternatives.
- (3) The City Manager is expressly prohibited from denying any permit based upon the identity of any speaker or entertainer or the viewpoint, content, or type of speech or expression to be displayed so long as such speech or expression is lawful.
- (4) Every denial of a permit shall be in writing and shall clearly explain the reason(s) for denial under sec. 4-23(2). A denial of a permit application as "incomplete" must identify the specific information required by this Article which was not provided. A denial based upon the unlawfulness of an event must identify the law or regulation prohibiting such conduct. A denial under sec. 4-25 of this Article must identify the conflicting events. A denial based upon a clear and present danger to the public safety or health must identify the specific conditions which reasonably give rise to the danger. A denial based upon the fact that the proposed event cannot be reasonably accommodated in the particular venue applied for must state specific reasons why the area is unsuitable for the event. A denial based upon an applicant's refusal to attend or participate in good faith in a pre-permit meeting, or suggest an alternative, shall identify the steps taken to provide reasonable notice and scheduling of such meeting and, if applicable, any conduct at the meeting demonstrating bad faith participation by the applicant. The purpose of the requirement is to allow the applicant to know the grounds upon which the permit was denied and to permit City Council the opportunity to verify and confirm the objective validity of any denial and to ensure that any limited discretion given to the City Manager under this Ordinance is not abused so as to disfavor protected speech or expression.
- (5) The City Manager may condition any permit with reasonable requirements concerning the time, place or manner of holding a special event as is necessary to coordinate municipal services, multiple uses of public property, assure preservation of public property and public places, prevent dangerous,

unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the venue, provided that such requirements are narrowly tailored to address these concerns and are not implemented for the purpose of regulating or restricting protected speech or expressive conduct.

All permit applications shall be deemed granted as applied for if the City Manager does not grant, grant with conditions, or deny the permit in writing within thirty (30) calendar days of receiving an application for a large event, fifteen (15) calendar days of receiving an application for a medium event, and five (5) business days of receiving an application for a small event. A permit which is granted automatically under this section is conditioned upon any required city services fee being paid before the permit becomes valid or effective. If an applicant disagrees with the fee required, the provisions of sec. 4-21(5) shall control.

- (6) The automatic granting of permits provided in sec. 4-23(5) shall not apply if:
 - a. The permit application fee has not been paid;
 - b. The City Manager has indicated his intent to deny a permit under sec.4-23(2) and the applicant has agreed, in writing, to supply the City Manager with additional information which may allow the permit to be granted. In this case, the permit application will be deemed granted if the City Manager does not grant, grant with conditions, or deny the permit in writing within ten calendar days of receipt of the additional information, unless the applicant agrees in writing to provide further additional information, which shall renew the terms and time-frames of this paragraph; or
 - c. The City Manager requests additional time to review the application and the request is agreed to in writing by the applicant. In this case, the permit application will be deemed granted if the City Manager does not grant, grant with conditions, or deny the permit in writing by the expiration of the agreed date.
- (7) Every denial of a permit and every conditional grant of a permit challenged by an applicant is appealable to the City Council by letter filed with the City Clerk within three (3) business days after receipt of the denial or proposed conditional grant. The City Council shall grant or deny the permit, or uphold or rescind the conditions, based upon information presented by the applicant and the City Manager or his designee in a *de novo*, quasi-judicial hearing held as soon as practicable. The City Council's decision, including its reasons therefor, shall be announced at the conclusion of the hearing and entered onto the record thereof which shall constitute the Council's final order in any subsequent proceedings and which may, but shall not be required to, express findings of fact and conclusions of law. The hearing may be continued from time to time in the sole discretion of the City Council, provided that if the City Council does not render a final order within fifteen (15) days after filing of the letter of appeal the permit shall be deemed granted.

Sec. 4-24. Posting vendor contacts.

If the permit is granted, the applicant shall conspicuously display to the public (on a form to be provided by the City Manager) the name, mailing address, email address, and telephone number of each vendor, artist, or other person offering goods, services, or entertainment at the special event, including if different, the name, mailing address, email address and telephone number of the individual with on-site responsibility for the vendor, artist or other person. Such form shall be continuously displayed at the booth or specific location within the special event where such goods, services or entertainment are offered.

Sec. 4-25. Limitation of sandy beach events on the same day.

Notwithstanding anything to the contrary herein, permits for large events occurring wholly or partially on the sandy beach shall be restricted to the following limits for any one (1) calendar day:

- (1) One large event with deemed attendance in excess of ten thousand (10,000) persons; or
- (2) Multiple large or medium events with aggregate deemed attendance of twelve thousand (12,000) persons where the deemed attendance of no single event is greater than five thousand (5,000) persons; or
- (3) Multiple large or medium events with aggregate deemed attendance of fifteen thousand (15,000) persons where the deemed attendance of no single event is greater than two thousand five hundred (2,500) persons; or
- (4) A total of six (6) large or medium events regardless of deemed attendance.

Permits shall be issued in the order that substantially complete applications with the required fee are filed.

Sec. 4-26. Enforcement and Penalties.

(1) The City finds that a violation of any section of this Article presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature.

(2) Each violation of this Article shall constitute a separate, civil infraction within the meaning of Florida Statutes Chapter 162, Part II, punishable by a civil penalty in the amount specified below unless a different amount is specified in the section violated.

First violation of this Article: \$100.

Second violation of this Article: \$200.

Third and all subsequent violations of this Article: \$500.

Unless otherwise specified, a person who does not contest the civil citation for violation of this Article shall be subject to a civil penalty in the following amount:

First violation of this Article: \$50.

Second violation of this Article: \$100.

Third and all subsequent violations of this Article: \$250.

The penalty for uncontested civil citations may be paid directly to the City Clerk.

(3) This Article may be enforced by the issuance of a civil citation by a sworn police officer of the City who has reasonable cause to believe that a person has violated any section of this Article. All sworn police officers of the City shall be considered code enforcement officers for the purpose of enforcing every section of this Article. A citation issued under any section of this Article may be contested in the county court for Bay County, Florida. The civil citation shall contain the matters specified in § 162.21 Florida Statutes (2013), or subsequent, superseding legislation, in form approved by the Chief of Police. Any person who willfully refuses to sign and accept a citation issued pursuant to this section shall be guilty of a misdemeanor of the second degree, punishable as provided in §§ 162.21(6), 775.082 & 775.083, Florida Statutes or subsequent, superseding legislation. In addition to the penalties specified in this Article, a person voluntarily paying a civil citation or convicted of a civil citation shall be required to bear all costs and fees imposed by the County Court or the office of the Clerk.

(4) The civil penalties provided here are cumulative to any other civil or criminal penalties available for violation of this the Panama City Beach Code of Ordinances or state law, including the criminal penalties set forth in City Code sec. 1-12.

(5) Each day (any 24 consecutive hour period) that a continuing violation of this Chapter occurs or continues shall constitute a separate, civil infraction punishable by a civil penalty in the cumulative amount specified above. Repeat violations by a single person or entity may relate to different requirements imposed by this law and in different circumstance and still constitute a repeat violation for the purpose of determining the civil penalty due.

Sec. 4-27. Remedial purpose and severability.

(1) This Article will promote the public good by establishing necessary standards to define special events in the digital age and creating incentives and mechanisms to promote the public welfare by fostering preparation for, and curbing the excesses of, those assemblies, and also to employ those same standards to require persons owning or controlling property upon which a spontaneous, unplanned event occurs to use their best efforts to immediately control the event if feasible and provide an incentive to better secure their property in the future. Therefore, even though this Article contains civil penalties, it is adopted for the remedial purposes set forth here and in the lengthy recitals to the adopting ordinance, and if challenged the Article should nonetheless be given an equitable construction in order to achieve the clear and remedial purposes determined by the City Council.

(2) If any part or provision of this Article is held to be unenforceable for any reason, the remainder shall remain in full force and effect to the fullest extent possible under as liberal construction as may be needed to achieve its remedial purposes.

Secs. 4-28-29. Reserved.

SECTION 4. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the ^{Special} regular meeting of the City Council of the City of Panama City Beach, Florida, this 5th day of January, 2016.


MAYOR

ATTEST:


CITY CLERK

EXAMINED AND APPROVED by me this 5th day of January, 2016.


MAYOR

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