

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8, LICENSES AND BUSINESS REGULATIONS, BY ADDING ARTICLE VII, SPECIAL EVENTS; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, finds it to be in the public interest to amend regulations relating to the conduct of special events on property located within the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 8, "Licenses and Business Regulations," by adding Article VII, "Special Events," to read as follows:

"ARTICLE VII. – SPECIAL EVENTS

Sec. 8-172. – Definitions.

The following words and phrases, when used in this article, shall, shall have the following meaning:

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

Block party means the use of a residential street for a neighborhood function for which traffic control is required.

City manager means the city manager of the city, or designee.

City-sponsored event means a special event that the city council has (1) determined to be directly related to a recognized function of city government, (2) committed the city to significantly sharing in initiating, financing, supporting, and conducting the event, and (3) declared by the city a co-sponsor of the event

Concession means a facility at a special event where food or drink is offered to the public.

Director means the city director of Community Development, or designee.

Demonstration means a public display of the attitude of assembled persons toward a person, cause, issue, or other matter.

Expressive activity means conduct, the sole or principal purpose of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas.

Parade means the assembly of three or more persons whose gathering is for the common design and purpose of traveling or marching in procession from one location to another location for advertising, promoting, celebrating, or commemorating a thing, date or event that is not directly related to the expression of feelings and beliefs on political, religious or social issues.

Permit means written approval from the director to hold a special event.

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

Special event means a temporary event or gathering, including a parade, using either private or public property, which involves one or more of the following activities, except when the activity is for construction or house moving purposes only:

- (1) closing a public street;
- (2) blocking or restricting access to public property including right-of-way;
- (3) sale of merchandise, food or beverages on public property or on private property where otherwise prohibited by city ordinance;
- (4) erection of a tent on public property, or on private property where otherwise prohibited by city ordinance;
- (5) installation of a stage, band shell, trailer, van, portable building, grandstand or bleachers on public property, or on private property where otherwise prohibited by city ordinance;
- (6) placement of portable toilets on public property, or on private property where otherwise prohibited by city ordinance;
- (7) placement of temporary informational or traffic control signs including, but not limited to: no-parking, directional, or identification, special event signs or banners in or over a public right-of-way, or on private property where otherwise prohibited by city ordinance;
- (8) requires public safety support based on City standards and ordinances;
- (9) requires traffic control measures, not in conjunction with a street closure.

Sec. 8-173. – General Authority.

(a) The Director shall implement, administer and enforce the provisions of this article. The director has the authority to issue a special event permit that authorizes one or more of the activities described in this Article when the requirements of this article have been met.

(b) The provisions of this article are cumulative of all city ordinances. Except as provided in Subsection (c), tent permits, building permits, electrical permits, food establishment permits, alcoholic beverage licenses, and all other permits and licenses required by city ordinance or other law for specific activities to be conducted in conjunction with or as part of the special event must be applied for separately, in accordance with the applicable city ordinance or law. The director shall receive and coordinate applications for any city-issued permit or license required in addition to the special event permit.

(c) Application for a special event permit authorizes appropriate city departments to issue permits for the activities described in this article in locations where the activity would otherwise be prohibited by city ordinance.

(d) A permit or license for the use of public right-of- way required by city ordinance and any fees applicable to those permits and licenses, are not required for a special event conducted in compliance with this article and the terms of a valid special event permit.

(e) The director is authorized to install temporary traffic control signs, devices, and markings relating to the control of the speed, movement, and parking of motor vehicles in association with traffic anticipated to be generated by a special event for which a permit has been granted. A temporary traffic control sign, device, or marking shall have the same effect as traffic control sign, device, or marking authorized to be placed by the traffic engineer pursuant to Chapter 9, Art. IV of this Code.

Sec. 8-173. – Exemptions.

The provisions of this article do not apply to:

(1) The Armed Forces of the United States of America, the military forces of the State of Texas, political subdivisions of the State of Texas, and the forces of the police and fire departments acting within the scope of their duties;

(2) A funeral procession proceeding by vehicle under the most reasonable route from a funeral home, place of worship, or residence to the place of service or place of internment;

(3) A peaceful demonstration at a fixed location which is not a street; or

(4) Sidewalk procession which observes and complies with the traffic regulations and traffic control devices, using that portion of a sidewalk nearest the street, but at no time using more than one-half of the sidewalk.

Sec. 8-174. – Application; Permit.

(a) A person desiring to hold a special event shall apply for a special event permit by filing with the director a written application upon a form provided for that purpose. Each application shall be accompanied by a non-refundable application fee in the amount determined from time to time by resolution of the city council. An application for a permit for special events shall be made not less than 45 days prior to the date and time of the commencement of the special event. The director may waive the 45-day filing requirement if the application can be processed in less than 45 days, considering the number and types of permits required to be issued with the special event permit.

(b) An application to conduct a special event must contain the following information:

(1) the name, address and telephone number of the applicant and of any other person responsible for the conduct of the special event;

(2) a description of the special event, including any historical and promotional information, and requested dates and hours of operation for the event;

(3) the estimated number of participants and spectators at the special event;

(4) a drawing showing the area or route to be used during the special event, along with proposed structures, tents, fences, barricades, signs, banners, and restroom facilities;

(5) provisions for parking with a designation of where "No Parking" signs or other signs will be used;

(6) details of how applicant proposes to provide for security, crowd control, and traffic control and for any medical or other emergency, including an emergency evacuation plan;

(7) the time and location of street closings, if any are requested;

(8) details of the sale of merchandise or the sale or serving of food or alcoholic or nonalcoholic beverages at the special event, designating any street vendors or peddlers involved;

(9) a description of animals to be used in the special event, if any;

(10) a description of each motor vehicle to be used in the special event and proof that each vehicle is covered by insurance meeting the minimum requirements of state law;

(11) the name of each person who will operate a motor vehicle as part of the special event and proof that each person holds a valid driver's license;

(12) details of how the applicant will clean up the area used after the special event, if on public property;

(13) proof that the applicant possesses or can obtain all licenses and permits required by this article or other city ordinance or by state law for the conduct of the special event;

(14) if the applicant is a corporation, copies of a current certificate of account status issued by the Texas Comptroller's Office and a current certificate of existence issued by the Texas Secretary of State's Office, or, if the corporation is not incorporated in or holding a certificate of authorization in the State of Texas, copies of similar current certificates from the state in which the corporation is incorporated; and

(15) a description (including but not limited to the name, date, location, and size) of each special event that the applicant conducted or sponsored, or participated in conducting or sponsoring, within the preceding two years.

(c) Upon receipt of the completed application, the director shall forward a copy of the application to the building official, fire, police, risk management and other applicable city departments. Each department shall review the application and return it, with any comments, to the director within 10 working days of receipt.

(d) The director and city departments may prescribe licenses, permits, and authorizations required by other city ordinances or applicable law, restrictions, regulations, safeguards, and other conditions necessary for the safe and orderly conduct of a special event, to be incorporated into the permit before issuance.

(e) After reviewing the application and comments, the director shall issue the special event permit unless denial is required by this article. A special event permit will be issued for a period not to exceed ten (10) consecutive days.

Sec. 8-175. – Fees.

(a) An applicant for a special event permit shall pay the following fees to conduct the special event:

(1) A nonrefundable application fee established by city council by resolution from time to time.

(2) All fees for permits and licenses required by other city ordinances to conduct specific activities in conjunction with or as part of the special event.

(3) A rental fee for city equipment and property, including but not limited to barricades and street fixtures, used by the applicant for the special event.

(4) A fee for the number of Allen police officers required to provide security, crowd control, and traffic control at the special event.

(5) A fee to reimburse the city for direct costs incurred by the city in providing services at the special event; direct costs include, but are not limited to, the reasonable costs of setup, cleanup, electrical services, construction, placement of signs and other traffic control devices, and other related services beyond what the city would provide to the general public in the ordinary course of its daily operations.

(6) A fee for the number of Allen emergency medical personnel and emergency medical vehicles required to provide first aid and emergency medical services at the special event.

(b) Not less than ten (10) days before the date of the special event as shown on the special event permit, the applicant shall deposit with the city an amount equal to:

(1) all permit and license fees required by Subsection (a)(2);

(2) the estimated fees required by Subsections (a)(4) and (6); and

(3) a security deposit for any city equipment or property rented, to be refunded to the applicant if the equipment or property is returned undamaged to the city.

(c) The applicant shall pay any remaining fees owed the city for a special event within ten (10) days after the special event ends. The applicant may, upon written request to the director, obtain a refund of any fee deposited with the director for a service that the city did not provide for the special event.

Sec. 8-176. – Approval of plans.

(a) Issuance of a permit shall be subject to applicant receiving city approval of the plans submitted to the city pursuant to this Section not less than 10 days before the start of the special event.

(b) The city assumes no liability or responsibility for the conduct of the special event merely by approving the plans submitted with an application for a special event as require by this Section.

(c) The applicant shall prepare and submit to the director for approval the following plans when applicable to the type of special event:

(1) *Facilities.* A set of plans and specifications relating to all temporary facilities to be constructed or utilized for the special event.

(2) *Fire protection.* A plan for prevention of fires and for adequate protection of persons and property in the event of a fire, including, without limitation, adequate exits, fire extinguishers, adequate access for fire trucks and emergency vehicles.

(3) *Concession service.* Plans related to the provision of food and beverages.

(4) *Emergency medical service.* A plan to provide adequate emergency medical services at the special event.

(5) *Parking.* A plan to provide adequate parking for the proposed special event including written permission in the form provided by the city executed by all of the owners of the land to be used for the special event.

(6) *Police and fire protection; emergency medical service.* A plan providing for adequate safety, security, traffic and crowd control in connection with the special event. All public safety services shall be provided by Allen Police and Fire personnel. Crowd management requires a minimum of two officers per 500 participants. Emergency medical service, police protection and fire protection beyond that level normally provided will be supplied by the appropriate city department as deemed necessary by the chief of police and fire chief at applicant's expense.

(7) *Promotional.* If applicable, a plan to promote, market and advertise the special event.

(8) *Sanitation plan.* A plan to ensure that the highest standards of cleanliness and sanitation are maintained at the special event, including adequate restroom facilities, and a plan to empty refuse containers frequently to prevent overflow.

(d) The director shall determine whether the application and plans meet city safety and other requirements. The applicant may be requested to modify an application to meet the requirements of this article. Should any of the submitted plans fail to give, and after notice, the applicant is unable to provide for, adequate assurances that the plans will be implemented and carried out, the permit application may be denied.

Sec. 8-177. – Indemnification.

An applicant for a special event permit shall execute a written agreement to indemnify the city and its officers and employees against all claims of injury or damage to persons or property, whether public or private, arising out of the special event as approved by the city attorney.

Sec. 8-178. – Insurance.

(a) An applicant for a permit to hold a special event for any day of the event shall procure and keep in full force and effect for the duration of the event insurance written by an insurance company approved by the State of Texas and acceptable to the city and issued in the standard form approved by the Texas Department of Insurance. All provisions of each policy must be acceptable to the city. Each policy must name the city and its officers and employees as additional insureds. The coverage provisions of each policy must provide coverage for any loss or damage that may arise to any person or property by reason of the conduct of the special event by the Applicant.

(b) Insurance is required in the following types and amounts:

(1) Commercial general liability insurance must be provided with combined single limits of liability for bodily injury and property damage of not less than: (A) \$500,000 for each occurrence, for an estimated daily number of participants and spectators of up to 4,999; or (B) \$1,000,000 for each occurrence, for an estimated daily number of participants and spectators of 5,000 or more.

(2) If a special event includes vehicles, aircraft, or other equipment, devices, or activities that are excluded from coverage in the

commercial general liability insurance policy, then separate additional liability insurance coverage for the applicable exclusion must be provided with combined single limits of liability for bodily injury and property damage of not less than: (A) \$500,000 for each occurrence, for an estimated daily number of participants and spectators of up to 4,999; or (B) \$1,000,000 for each occurrence, for an estimated daily number of participants and spectators of 5,000 or more.

(3) If any alcoholic beverage is sold, served, or otherwise made available at the special event, then separate additional liquor liability insurance must be provided by the alcoholic beverage license holder in an amount of not less than \$1,000,000 for each claim.

(4) If any fireworks or other special effects are displayed at the special event, then separate additional general liability insurance must be provided by the pyrotechnics company in an amount of not less than \$3,000,000 for each claim.

(5) If security guards (other than Allen police officers or city staff) are used at the special event, then separate additional security guard liability insurance must be provided by the security guard company in an amount of not less than \$1,000,000 for each claim.

(6) If emergency response or first aid stations (other than stations staffed by only Allen or city staff) are provided at the special event, then separate additional medical liability insurance must be provided by the applicant in an amount of not less than \$1,000,000 for each claim, and if ambulance service (other than service provided by Allen and vehicles) is provided, then separate additional automobile liability insurance must be provided by the ambulance provider in an amount of not less than \$1,000,000 combined single limit for each claim.

(7) If amusement rides are provided at the special event, proof of separate additional general liability insurance meeting the state liability and coverage requirements for each particular ride must be provided by the applicant, along with a current certificate of inspection for each ride.

(8) If animals are part of the special event, then separate additional general liability insurance covering any bodily injury and property damage caused by animals must be provided by the applicant in an amount of not less than \$500,000 for each claim.

(9) If the special event is conducted at a city-owned facility that is not covered by insurance requirements established by a City lease and use agreement, then separate additional general liability insurance must be provided by the applicant in an amount of not less than \$500,000 for each claim.

(c) In addition to the insurance requirements of Subsection (b) of this section, the director may require additional insurance for a special event if such additional insurance is

recommended by the city's risk manager as being necessary for the protection of the city or the public health, safety, and welfare.

(d) If a facility or other property owned or managed by the city is subject to both the insurance requirements of this article and insurance requirements established by another city ordinance, an official city action, a city lease or use agreement, or other applicable law, then the insurance requirements with the greater limits and coverages must be met to conduct the special event at the facility or property.

(e) An original certificate of insurance completed by an authorized agent of the insurance company and evidencing each insurance coverage required under this section must be delivered to the director at least ten (10) days before the special event begins.

Sec. 8-179. – Issuance, denial and revocation of special event permit.

(a) Upon receipt of an application for a special event, the director shall forward a copy of the application to the city departments that maybe be affected by the special event or asked to provide support for the special event and shall issue its approval or denial of the application within 21 days of receipt.

(b) A requirement to obtain licenses and permits required by other city ordinances or applicable law, restrictions, regulations, requirement to pay the cost for city services, safeguards, and other conditions determined necessary by the director for safe and orderly conduct of a special event may incorporated a condition for issuance of a permit for a special event.

(c) The applicant shall make full payment of any applicable fees, submit the required indemnification and submit proof of insurance prior to the issuance of the special event permit. Applicable fees are in addition to the deposit due at the time of permitting.

(d) The director may deny a special event permit if:

(1) a special event permit has been granted for another special event at the same place and time; or within two hours of commencement or conclusion of a previously permitted special event; or adjacent to another special event;

(2) the proposed special event will unreasonably disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available; or will occupy any part of a freeway, expressway or tollway;

(3) the applicant fails to comply with, or the proposed special event will violate, a city ordinance or other applicable law, unless the prohibited conduct or activity would be allowed under this Article;

(4) the applicant fails to provide a complete application, or makes a false or misleading statement on an application for a special event permit;

(5) the applicant has had a special event permit revoked within the preceding 12 months or the applicant has committed two or more violations of a condition or provision of a special event permit or of this article within the preceding 12 months;

- (6) the applicant fails to adequately provide for:
 - (i) the protection of event participants and spectators;
 - (ii) maintenance of public order in and around the special event location;
 - (iii) security, crowd control or traffic control taking into consideration the size and character of the event;
 - (iv) emergency vehicle access and the provision of emergency medical services and personnel;
 - (v) portable restroom facilities; or
 - (v) safe sanitary conditions for preparation or operation of food concessions;
 - (7) the applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the special event;
 - (8) the applicant fails to pay any outstanding costs owed to the city for a past special event permit or is otherwise past due in any fees, penalties, fines or taxes owed to the city;
 - (9) the applicant fails to submit the required deposit and agree in writing to reimburse the city for the estimated costs to be incurred by the city for the special event;
 - (10) the proposed special event would unduly burden city services;
 - (11) the special event begins or ends outside the city limits, unless the applicant provides proof of approval of any other affected governmental entity;
 - (12) the city police chief, city fire chief or director determines that the special event would pose a serious threat to the public health, safety or welfare; or
 - (13) the applicant has a history of conducting or sponsoring special events in a disorderly, unsafe, unsanitary, or fiscally irresponsible manner.
- (b) The director shall revoke a special event permit if:
- (1) the applicant fails to comply with or the special event is in violation of any provision of the special event permit, a city ordinance, or any other applicable law;
 - (2) the permit holder made a false statement on an application for a special event permit or failed to properly complete an application for a special event permit;

(3) the chief of police, the fire chief or the director, or determines that the special event poses a serious threat to the public health, safety, or welfare;

(4) the permit holder failed to pay any outstanding fees or deposit for the proposed special event or for a past special event; or

(5) the permit holder or any other person responsible for the conduct or sponsorship of the special event is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the permit holder or other person.

Sec. 8-180. – Appeal of denial or revocation of permit.

If the director denies the issuance of a permit or revokes a permit, the director shall send to the applicant or the permit holder by certified mail, return receipt requested, written notice of the denial or revocation and of the right to appeal. The applicant or permit holder may appeal the decision in writing to the city manager not later than three days after receipt of the notice of denial or revocation. The city manager will present the appeal to the city council at its next regular meeting. The decision of the city manager shall be final.

Sec. 8-181-Offenses.

A person commits an offense if the person:

(a) commences or conducts a special event without have first been granted a special event permit; or

(b) violates any provision of a special event permit or this Article; or

(c) fails to comply with any temporary traffic control device, sign, or marking installed pursuant to Section 8-173(e).

Sec. 8-182. – Penalty.

(a) A person who violates a provision of this Article or a requirement of a special event permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continued.

(b) Each offense is punishable by a fine not to exceed:

(1) \$2,000 for a violation of a provision of this Article or a requirement of a special event permit governing fire safety, zoning, or public health and sanitation, including dumping of refuse; or

(2) \$500 for all other violations of this Article or requirements of a special event permit; or

(3) the fine established pursuant to other applicable ordinances or state law if the violation relates to failure to comply with a temporary traffic control sign, device, or marking installed or placed pursuant to this article.”

SECTION 2. All ordinances of the City of Allen in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2000.00) for each offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 28TH DAY OF AUGUST 2018.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:8/20/18:TM 100656)

Shelley B. George, CITY SECRETARY