

ORDINANCE NO. 1027

AN ORDINANCE OF THE CITY OF ARCADIA CREATING ARTICLE III OF CHAPTER 86 REGARDING SPECIAL EVENTS; PROVIDING FOR DEFINITIONS; PERMITS; EXEMPTIONS FROM PERMITS; FEES; REQUESTS FOR FEE WAIVERS AND BUDGET ALLOCATIONS; GENERAL CRITERIA AND LIMITATIONS; APPLICATION REQUIREMENTS; APPLICATION REVIEW; GROUNDS FOR DENIAL; NOTIFICATION OF DENIAL AND RIGHT TO APPEAL; POLITICAL DEMONSTRATIONS; LITTER CONTROL; SECURITY FOR UNPAID EXPENSES; ALCOHOL AND BEVERAGE SALES; INDEMNIFICATION AND LIABILITY INSURANCE; SIGNAGE; NOISE CONTROL; TEMPORARY BATHROOM FACILITIES; REVOCATION; AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is beneficial to the City and its residents for special events to be held in the City; and

WHEREAS, over time, a large number of varied special events have occurred in the City without clearly defined regulations; and

WHEREAS, it is necessary to provide clear criteria to regulate and facilitate special events occurring in the City; and

WHEREAS, the City Council finds that special events that utilize City services over and above the normal level of service should reimburse the City for such additional services; and

WHEREAS, the City Council has determined that it is in the best interest of the public health, safety, environment and general welfare to adopt this Ordinance establishing criteria for the regulation of special events,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA:

SECTION 1. Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

SECTION 2. Amendment of the Code of Ordinances. Article III of Chapter 86 of the Code of Ordinances of the City of Arcadia is hereby created as follows:

"ARTICLE III. SPECIAL EVENTS

Sec. 86-52 – 86-69. Reserved.

Sec. 86-70. Definitions.

The following words, terms and phrases, when used in this Ordinance shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Applicant means the individual(s) or entity that makes the application to the City to hold a special event.

City means the City of Arcadia, Florida.

City Administrator means the City Administrator of the City of Arcadia, Florida, or his or her designee

City Council means the City Council of the City of Arcadia, Florida.

City organized event means any event organized or hosted by the City.

Political Demonstration means any public gathering, procession or parade, the primary purpose of which is the exercise of the rights of assembly and free speech as guaranteed by the First Amendment to the Constitution of the United States.

Special event means any meeting; activity; gathering; group of persons, animals, or vehicles; or a combination thereof, having a common purpose, design or goal, in any area of the city, which event is intended to or does draw public attention, brings people together in one location that normally would not include a concentration of population, and substantially inhibits or has the potential to substantially inhibit the usual flow of pedestrian or vehicular travel or which occupies any public area or building and results in preemptive use by the general public or which deviates from the established use. Such events may include entertainment, dancing, music, dramatic presentations, art exhibitions, or the sale of merchandise, food, or alcohol, or any combination thereof and which of necessity requires for its successful execution the provision and coordination of City services to a degree over and above that which the City routinely provides under ordinary everyday circumstances. The term shall include, but not be limited to, festivals, carnivals, concerts, parades, walks, races, garage sales, weddings, retirement parties and fundraising events, but does not include events which are solely political demonstrations, unless such political demonstration is proposed as an integral part of a larger event.

Special event application means the form provided by the City for the purpose of processing a special event.

Special event fee means the fee an Applicant is required to pay as reimbursement for City services utilized by the special event above the level of service customarily provided by the City, in accordance with the special event permitting procedures, before a special event permit will be processed. Special event fee rates shall be as established by resolution of the City Council, which may be amended from time to time.

Special event organizer means an individual or group of individuals responsible for organizing the special event.

Special event permit means a letter or other correspondence to the special event organizer following approval of the special event by City Council outlining the conditions of approval.

Special event permitting procedures means the procedures adopted by this Ordinance pertaining to the issuance, suspension, and revocation of a special event permit.

Special event vendor means a person, corporation, company or business that sells, or offers for sale, goods, wares, merchandise, beverages, or food-stuff of any kind or nature whatsoever at a special event and includes all persons, corporations, companies or businesses, whether for profit or not-for-profit.

Sec. 86-71. Permit Required.

No person or entity shall initiate, sponsor, organize, promote, conduct or advertise a special event or political demonstration unless a permit has been obtained from the City. Applicants requesting special event permits may include, but are not limited to, commercial, educational, civic, recreational, and religious organizations.

Sec. 86-72. Exemptions from Permit Requirement.

The following shall not require a special event permit:

- a) Events conducted by religious entities, provided such events are conducted entirely on property owned by the religious entity.
- b) Private events that will make no use of public property other than for lawful parking.
- c) Events conducted solely for the purpose of exercising a group's First Amendment right of free speech and/or assembly. If an event has any commercial aspect, then this exemption shall not apply.
- d) City organized events.

Sec. 86-73. Fees.

- a) All fees that relate to special events and special events permits shall be established by resolution of the City Council.
- b) The City shall be exempt from all permit fees relating to City organized events.

Sec. 86-74. Requests for Fee Waivers and Budget Allocations.

- a) Any not-for-profit entity shall be eligible for a special event fee waiver. The City Council shall each year, as part of the annual budget, approve an amount of money that will be utilized for such fee waivers and may, upon the request of any specific not-for-profit entity or

group, specifically allocate an amount to be used for fee waivers for that entity or group. Requests for fee waivers may be handled on a first come, first served basis until such time as the annual budgeted amount has been exhausted. Once the annual amount has been exhausted, no further fee waivers shall be granted provided; however, that the City Council, at any time during the year, may take action to increase the amount budgeted for such fee waivers.

- b) The City Administrator may waive a special event permit fee without a budget allocation in instances where a not-for-profit entity or group provides in-kind services that benefit the City.

Sec. 86-75. General Criteria and Limitations.

The following general criteria and limitations shall apply to special event permits:

- a) The activity proposed must be compatible with the surrounding land uses; provided, however, that special event permits for events in areas zoned for single-family residential use are limited to family celebrations (i.e., weddings, retirement parties, graduation parties and the like) and residents' block parties.
- b) No Applicant shall receive a special event permit more than six times within a calendar year; provided, however, that City Council may grant businesses or entities approval for a recurring special event permit that is not subject to this limitation; and provided further that City Council shall have the authority to permit an applicant to exceed the six special events annual limitation in its discretion. Examples of a recurring special event include, but are not limited to, "antique fairs," "car shows," "bike nights," and music or art themed events. To qualify as a recurring event, the special event must meet the following requirements:
 - i. Each individual special event must be held at the same location at the same time of day.
 - ii. All dates for the recurring special event must be listed on the original application.
 - iii. Each individual special event must be of the same genre with similar anticipated attendance.
 - iv. A recurring special event can occur no more often than weekly and for no more than one year on a single application.
- c) An applicant must submit an affidavit that permission has been obtained from the owner of any land upon which the special event is to be held unless the special event is to be held exclusively on public property.
- d) All applicants must include a site plan that identifies any and all tents, canopies,

recreational vehicles, or accessory structures that are to be utilized in connection with a special event. Tents or other similar temporary structures more than one hundred square feet in size must be inspected and approved by the DeSoto County Fire Marshal. A general site plan and parking plan shall be included as part of the special event permit application. The location of any accessory structures shall not obstruct traffic or violate any applicable City, county or state laws.

- e) The following types of special events must be approved by the City Council:
 - i. Special events with a duration of four days or more.
 - ii. Special events where alcohol will be served.
 - iii. Special events requesting funding from the City.
 - iv. Special events where the noise is anticipated to exceed what is permitted by the City Code.
 - v. Recurring events, as set forth in Section 86-75(b) above.

Sec. 86-76. Application Requirements.

- a) Any person or entity seeking issuance of a special event permit shall file a written application with the City Administrator, or designee, on forms provided by the City.
- b) An application for a special event permit must be filed with the City Administrator, or designee, at least 45 days prior to the date of the special event. Applications received less than 45 days, but at least 20 days, prior to the special event will incur a 20 day rush fee in addition to the permit application fee. Applications received less than 20 days, but at least 10 days, prior to the special event will incur a 10 day rush fee in addition to the permit application fee. Rush fees shall be proscribed by resolution of the City Council. Applications received less than 10 days before the special event will not be processed.
- c) A permit application shall include the following:
 - i. The name of the special event and its purpose in general terms.
 - ii. The name(s) of the person(s) or organization(s) sponsoring the special event, together with the addresses and telephone numbers of all such persons or organizations.
 - iii. The proposed date or dates of the special event.
 - iv. The specific location(s) within the City where the special event is to be held. The applicant shall also be required to submit a general site plan, which shall:

- A. Describe the layout of the special event;
 - B. Identify locations of all vendors, concessions, tents, canopies, recreational vehicles and any temporary or accessory structures;
 - C. Identify and describe a parking plan; and
 - D. Identify the locations of all temporary bathroom facilities, as required by section 86-87 herein.
- v. In instances where a proposed special event will be held within 500 feet of residential property and will include any amplified sound, the applicant shall provide notice to such owners and advise them of the nature of the special event and the dates and times when the special event will be held. The 500 feet shall be measured from the perimeter of the site where the special event will take place and for condominium properties, a single written notification to the condominium association shall be sufficient. The notification shall advise the owner(s) of their right to submit a letter of objection to the City Administrator and shall include the date by which any such letter of objection must be submitted.
- vi. The expected number of persons who will attend the special event.
- vii. A description of how vehicle parking for the special event will be managed.
- viii. Whether any street closings are requested and, if so, which streets and the times when they will be closed.
- ix. Whether any alcoholic beverages will be served and whether appropriate state licenses have been applied for.
- x. If any entertainment will be included, details as to the type of entertainment, times and location shall be provided.
- xi. Whether utility services, such as electrical power or water, will be required.
- xii. Proof that a written request for approval of the special event has been submitted to all applicable outside state and local agencies.
- xiii. The City Administrator shall have the authority to require any additional information from the applicant that the City Administrator deems necessary.

Sec. 86-77. Review of Application.

Upon receipt of an application that contains all of the items listed in section 86-76 and all applicable fees, the City Administrator, or designee, shall forward copies of the application to all affected City departments for their review. The City Administrator shall grant or deny a special

event application within fifteen (15) business days after the application is complete. Special event applications requiring City Council approval shall be scheduled for consideration at the next available regular meeting of the City Council. A special event application shall not be deemed complete until the City has received notification that all federal, state and local permits or approvals have been obtained. If the City Administrator has received one or more letters of objection from residents who reside within 500 feet of the proposed special event location, the City Council shall have the right to place conditions on the special event permit to mitigate any adverse effects on nearby residential properties.

Sec. 86-78. Grounds for Denial.

- a) The City Administrator or City Council may deny an application for a special event permit if the applicant, or the person on whose behalf the application for a permit was made, has on a prior occasion made a material misrepresentation regarding the nature or scope of an event or activity previously permitted by a special event permit, or, who has previously violated the terms of a prior special event permit, issued to or on behalf of the applicant. An application for a special event permit may also be denied for any of the following reasons:
- i. The application for a special permit (including any required attachments and submissions) is not fully completed and properly executed;
 - ii. The applicant has not tendered the required application fee, if any, with the application or has not tendered any other required fees, indemnification and hold harmless agreement, insurance certificate, or security deposit, if any, within the times prescribed by the City Administrator, or designee;
 - iii. The application contains a material falsehood or misrepresentation;
 - iv. The applicant or the person on whose behalf the application for the special event permit has been made has on prior occasions damaged City property and has not paid in full for such damage, or has other outstanding and unpaid debts to the City;
 - v. A fully executed prior application for a special event permit for the same time and place has been received, and a special event permit has or will be granted to the prior applicant, authorizing uses or activities which do not reasonably permit multiple occupancy of the area where the event is proposed to be held;
 - vi. The use or activity intended by the applicant will conflict with previously planned programs organized or conducted by a governmental agency and previously scheduled for the same time and place;
 - vii. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the public;

- viii. The applicant has not complied or cannot comply with applicable licensure requirements, laws, ordinances or regulation of the state, the county or the City concerning the sale or offering for sale of any goods or services; or
 - ix. The use or activity intended by the applicant is prohibited by state or federal law or by ordinances or regulations of the county or the City.
- b) If the special event application is denied, the applicant shall not be entitled to receive any reimbursement from the City for any costs incurred during the application process, including the application fee.

Sec. 86-79. Notification of Denial and Right to Appeal.

- a) Any applicant who is denied a special event permit by the City Administrator shall be notified in writing of the denial no later than five (5) days prior to the date of the proposed event. Said notification shall state the reasons for the denial and the right of appeal to the City Council, and shall be sent by registered mail to the applicant. The notifications required herein shall not apply to any application which does not contain all of the items listed in section 86-76 and all applicable fees.
- b) The applicant shall have ten (10) days from receipt of the written notification of permit denial to request an appeal hearing before the City Council. If the appeal cannot be heard by the City Council prior to the date when the event is scheduled to be held, the filing of an appeal shall not entitle the applicant to conduct the event on that date. But, if the appeal is successful, the applicant may hold the event on a rescheduled date that is after the City Council meeting at which the appeal was heard.
- c) A decision of the City Council may be appealed to a court of competent jurisdiction within thirty (30) days after the hearing at which the decision is announced.

Sec. 86-80. Political Demonstrations.

Applications for permits to conduct political demonstrations, as defined in Sec. 86-70, shall have the same requirements as applications for special event permits, provided, however, that the time period for approval or denial of permits for political demonstrations shall be expedited and shall not exceed five (5) business days, and provided further that any appeal of a denial of such permit shall also be expedited and shall be heard by City Council at its next regular meeting or, if such meeting is more than ten (10) business days from the date of the filing of an appeal, the City Council shall hold a special meeting within that ten (10) business day period to hear the appeal.

Sec. 86-81. Litter Control.

- a) Special event permit holders shall be responsible for ensuring that the area where the special event is held is free of all litter and debris within 24 hours of the time the special event ends.

Special event permit holders shall be responsible for removing all garbage and litter at the end of each day when the special event spans more than a 24-hour period.

- b) In the event this section is not complied with, the City Administrator shall have the authority to contract with a cleaning service and the cost of the clean up shall be the responsibility of the permit holder and, if not promptly paid, may be deducted from any required security deposit.

Sec. 86-82. Security for Unpaid Expenses.

The City Administrator or City Council may require the posting of a security deposit, or other form of security acceptable to the City, to ensure that any unpaid expenses or damages incurred as a result of the special event are satisfied.

Sec. 86-83. Alcohol and Beverage Sales.

Alcohol and beverage sales conducted on the property on which the special event is being held shall be in accordance with Florida Statutes and the City of Arcadia Code of Ordinances, Chapter 18. Furthermore, it is the responsibility of the alcohol licensee to ensure that no open containers of alcohol sold on the premises shall be permitted beyond the designated special event site.

Sec. 86-84. Indemnification and Liability Insurance.

- a) Prior to the issuance of the special event permit, the applicant shall be required to execute an Indemnification and Hold Harmless Agreement in a form acceptable to the City Attorney.
- b) Prior to the issuance of the special event permit, subject to other applicable laws or ordinances, the City may require the applicant to procure public liability insurance coverage for the special event in the minimum limits of coverage of not less than \$1,000,000.00 combined single limit coverage of bodily injury, property damage or combination thereof. City shall be listed as an additional insured on the policy and the special event organizer must provide City with a current certificate of insurance evidencing the required coverage prior to the special event. A special event that involves higher risk activities may be required to have higher limits of coverage at the discretion of City Council.
- c) If alcoholic beverages are to be dispensed, served, sold or distributed at an outdoor special event, the applicant(s) shall also provide liquor liability insurance in the amount of \$500,000.00 and include the City as an additional insured.

Sec. 86-85. Signage.

- a) All signage relating to special events shall comply with Article 8 of the City's Land Development Code.
- b) All banners are permitted to hang for a period of no more than two weeks prior to the event; provided, however, that the City Administrator may permit a banner to be hung for a period of up to four weeks if availability allows. All banners must have grommets that are no less

than two feet apart on the top and bottom. Banners can be no wider than 16 feet and no taller than three feet. Banners shall not contain any commercial advertising information other than for the special event. All banner proofs must be approved by the City Administrator.

- c) For any special event where a requested road closure has the potential to affect a sizeable segment of the community, notice of such closure must be provided to the public at least five days prior to a special event if variable message signs are utilized or 14 days prior to a special event if static signs are utilized. Type and placement of signs shall be determined by the City's Public Works Director.

Sec. 86-86. Noise Control.

All permitted special events shall be subject to the noise regulations adopted by the City. Such activities may also be subject to additional specific limitations on noise as set forth in the permit. Any violation of such conditions shall constitute grounds for immediate revocation of the permit by the City Administrator.

Sec. 86-87. Temporary Bathroom Facilities.

- a) The number and location of portable toilets located on-site and on public property within five hundred (500) feet of the special event location shall be determined by the City Administrator, or designee, during the application process. Such determination shall include application of the State of Florida Department of Health minimum temporary bathroom facility requirements for special events, as set forth in Florida Administrative Code 64E-6.0101, including any amendments thereto.
- b) If structures within five hundred (500) feet of the special event site have existing toilet facilities easily identified and readily available to the public, and there is no charge to the public to have access or to utilize them, the City Administrator may take those into consideration when determining the required number and location of portable toilets to be located on-site and on public property within five hundred (500) feet of the special event location
- c) At least five percent (5%) of bathroom facilities or two (2) of those facilities, whichever is the greater number, shall be accessible to persons with physical disability.

Sec. 86-88. Revocation.

- a) The City Administrator shall have the authority to revoke a special event permit, regardless of whether the permit was approved by City Council, where the Applicant fails to comply with any conditions required for operation of the special event, ordinances of the City, laws of the State of Florida, or otherwise places persons or property in jeopardy of serious harm or injury.

- b) During the special event, the City Marshal or Fire Chief, or their respective designee, shall have the authority to order that the special event cease if the continuance thereof will contribute to public disorder or endanger life or property.

Sec. 86-89. Enforcement.

- a) *Violation.* Any violation of this Article shall be a violation with penalties imposed as set forth in Section 2-151(b) of the City of Arcadia Code of Ordinances. Citations for violations of this Article may be prosecuted as set forth in the City Code.
- b) *Criminal.* Any person, corporation or entity who shall conduct, manage, operate or maintain a special event defined in this chapter who violates any provision of this chapter may upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days, or both. Said fine is exclusive of all costs related to enforcement, attorney's fees and all other fees as provided herein. Each day of violation shall be considered a separate offense.
- c) *Civil.* Nothing herein contained shall prevent the City from separately seeking civil relief for actual expenses incurred for violation(s) of this chapter from the person(s), corporation or entity so violating or from seeking injunctive relief if a special event is being held in violation of this chapter.”

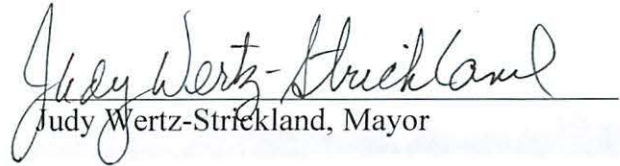
SECTION 3. Codification. The publisher of the City's Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 above into the Code of Ordinances of the City of Arcadia, Florida as Article III, Chapter 86.

SECTION 4. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

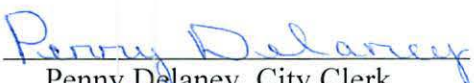
SECTION 5. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on
this 5th day of September, 2017.**

CITY OF ARCADIA, FLORIDA


Judy Wertz-Strickland, Mayor

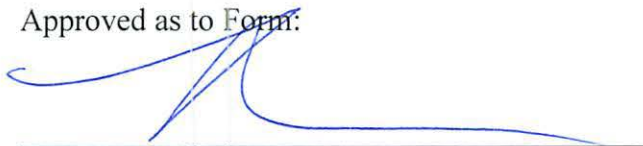
Attest:

By: 
Penny Delaney, City Clerk

Passed on First Reading the 1st day of August, 2017

Passed on Second Reading this 5th day of September, 2017

Approved as to Form:



Thomas J. Wohl, City Attorney



