

6/9/2014

ORDINANCE NO. 24-008

AN ORDINANCE ADDING CHAPTER 36 SPECIAL EVENTS, TO THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG PROVIDING DEFINITIONS, CHECKLIST AND PERMIT REQUIREMENTS, TIMEFRAMES, REQUIREMENTS FOR ISSUANCE OF PERMIT, APPEAL; PROVIDING FOR PARTIAL INVALIDITY, PENALTIES AND AN EFFECTIVE DATE.

WHEREAS, The City recognizes the need to encourage and promote events for the greater good, cultural diversity and promotion of the City. Some gatherings and organized activities, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety and welfare. In order to plan for these demands on public resources and ensure that public health and safety is protected, it is necessary that the City receive advance notice of these events. The provisions of this Chapter are intended to address those concerns and are not intended to place unnecessary burden on any right of association or freedom of expression; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICKSBURG, TEXAS THAT THE FOLLOWING ORDINANCE BE AND IS HEREBY ENACTED AND THAT CHAPTER 36 SPECIAL EVENTS SECTIONS 36.100 THROUGH 36.111 BE ADDED TO THE CODE OF ORDINANCES OF THE CITY OF FREDERICKSBURG AS FOLLOWS:

**Chapter 36**  
**SPECIAL EVENTS**

**Sec. 36-100 Definitions**

*Applicant* means a person or entity who intends to hold a Special Event. An agent of an Applicant may prepare and submit the documentation required hereunder with proper authority submitted along with the Sponsor/Promoter/Sponsor Checklist. The Applicant, along with and in addition to anyone else who violated the provisions hereof, shall be a responsible party under the provisions hereof,

and will be subject to fines and punishment for violations and/or for violations of the terms of this Chapter.

*Checklist* means a written submission to the City, on forms provided by the City, of information about the Special Event.

*City* means the City of Fredericksburg, Texas, acting through its City Manager.

*City Manager* means the City Manager of the City of Fredericksburg or his or her designee which may include one or more persons or a committee.

*City Owned Property* means any property in the City designated as a park, playground, recreational facility, swimming pool or hike and bike path, or other City-owned property, including streets, and shall include buildings, parking lots and driveways in such areas.

*First Amendment Activity* means all expressive and associative activity on public streets that is protected by the United States and Texas Constitutions, including speech, press, assembly and the right to petition.

*First Amendment Event* means an event where the sole or principal object is First Amendment Activity.

*Parade* means any assembly, march, demonstration or procession upon public streets within the City including persons, animals, or vehicles that is reasonably likely to interfere with the normal flow or regulation of traffic.

*Seasonal Special Event* means an event that occurs in a specific season and is scheduled throughout the season on non-sequential days, and may use a single Special Event Permit.

*Special Event* means a temporary event, gathering or activity, including but not limited to parades, bike races, marathons, walk-a-thons, fireworks displays, concerts, carnivals other types of races and festivals, First Amendment Events, and Seasonal Special Events which involve one or more of the following activities:

- (a) Closing or partial closing of a public street for a period in excess of two (2) hours;
- (b) Blocking or restricting City-owned property;
- (c) Blocking or restricting access to City Parks unless otherwise authorized by the City Parks and Recreation Department under its reservation policies;
- (d) Sale of merchandise, food or beverages on City-owned property;
- (e) Erection of a tent equal to or greater than two hundred (200) square feet in area on City-owned property;
- (f) Installation of a stage, band-shell, trailer, van, grandstand, bleachers or other portable building or structure on City-owned property;

- (g) Placement of portable toilets on City-owned property;
- (h) Events reasonably expected to have more than 300 people per day on City-Owned property;
- (i) Placement of temporary no-parking signs in a public right-of-way or on City-owned property; or
- (j) Placement of pedestrian boundary markers on City-owned property.

*Special Event Permit* means written authorization from the City Manager to hold a Special Event.

*Special Event Rules and Regulations* means the guidelines, rules, regulations, policies and procedures developed as set forth in Sec. 36-108 below. Special Event Rules and Regulations may include, but are not limited to the following: processes; procedures; cost recovery for public safety sanitation and transportation personnel; safety regulations; resource requirements; and surety and insurance requirements. Special Events must additionally adhere to all other relevant City Ordinances or provisions of State Law.

### **Sec. 35- 101 Checklist Required**

(a) It shall be unlawful for any Person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having submitted a Promoter/Sponsor Event Checklist.

(b) A Promoter/ Sponsor Event Checklist is not required for:

(1) events conducted entirely on the property of a religious institution, educational institution, college, or university campus. City, State or Federal streets or parking lots for multi-tenant buildings, regardless of location, shall not be considered part of a religious institution, educational institution, college or university campus;

(2) events on property owned or controlled by the City subject to a contract, lease or management/operating agreement with a person or entity where the agreement addresses events on the property or the event is included within the permitted uses in the agreement;

(3) processions of vehicles operated in compliance with traffic laws or a procession of pedestrians excluding organized walks, runs, parades and the like, in compliance with traffic laws along or upon public sidewalks, public parks, or private property;

(4) events held for National Night Out;

(5) funerals and Funeral processions;

(6) First Amendment Activity conducted entirely on sidewalks, in public parks or on private property in compliance with traffic laws and any other applicable City Ordinances (for example, handbills, placing property in rights of way, health laws etc); or

(7) events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental entity other than the City.

### **Sec. 36- 102 Permit Required**

(a) It shall be unlawful for any Person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having obtained a Special Event Permit from the City Manager if the Special Event requires any City services for which compensation is not made under contract with the City.

(b) No Special Event Permit shall be denied nor shall the Applicant be given less favorable consideration as to time, manner, or place based upon:

(1) race, color, creed, religion, gender, domestic relationship status, parental status, sexual orientation, transgender, gender identity or gender expression, national origin, political affiliation or any other prohibited characteristic of the Applicant and/or the participants of the Special Event; or

(2) the message of the Special Event, or the identity or associational relationships of the Applicant and/or participants; or

(3) any assumption or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the Special Event, provided that reasonable accommodation as to time, manner, and place may be required in order for the City to provide the resources necessary for police, fire and emergency services to preserve and protect public health, safety and welfare.

(c) The necessity of obtaining a permit will be made by the City Manager based upon the information submitted in the Promoter/ Sponsor Event Checklist. In making such determination, the City Manager shall reasonably interpret the information in the Promoter/ Sponsor Event Checklist, and may use past experience with the type of event, inaccuracies in the completion of the checklist, omissions in the same and lack of substantiation of stated items if requested.

## **Sec. 36-103 Contents of Promoter/Sponsor Checklist**

(a) An Applicant shall file a Promoter/Sponsor Checklist ("Checklist") with the City upon forms provided by the City.

(b) The Promoter/Sponsor Checklist shall set forth as a minimum the following information, and will be supplemented at the request of the City in order for the City to determine whether or not a Permit Application is required or if the information submitted is incomplete:

- (1) the name of the Special Event,
- (2) the name, address and telephone numbers of the Applicant and the Sponsor or Promoter if different from Applicant along with proper authority if applicable,
- (3) the proposed location(s) and address(es) for the Special Event,
- (4) a description of the activities of the Special Event,
- (5) the date(s) and time(s) the Special Event will start and terminate,
- (6) the time at which on-site activities in preparation for the Special Event will begin.
- (7) whether a street closure longer than two (2) hours is requested for the Special Event.
- (8) whether any City property will be blocked,
- (9) whether merchandise, food or beverages will be sold,
- (10) general description of tents to be erected, if any,
- (11) general description of any temporary structures, toilets, signs, trailers or boundary markers to be placed, if any,
- (12) estimated number of persons who are expected to attend per day for the duration of Special Event.

(c) The Applicant is responsible for updating this information prior to the event, and the City requirements may be amended as a result of an increase or decrease in the number of persons expected to attend or other change in circumstances. The minimum will be the number of advance sales or registrations.

(d) Within thirty five (35) days following the submission of the Checklist and any supplemental information requested, the City Manager will determine whether or not a Special Events Permit is required, and Applicant will be notified using the contact information on the Checklist.

## **Sec. 36-104 Application for Permit**

A Special Event Permit shall not be issued until a completed Special Event Permit Application, together with any additional information requested, and payments of all applicable fees, if any, are received by the City.

The Special Event Permit Application must demonstrate compliance with this ordinance, the Special Event Rules and Regulations, and other applicable law.

## **Sec. 36-105 Permit Application Requirements**

(a) An Applicant shall file a Special Event Permit Application ("Application") with the City upon forms provided by the City, and the Application shall not be acted upon until it is complete and all applicable fees, if any, are paid.

(b) The Application shall set forth as a minimum the following information, and will be supplemented at the request of the City for all information which cannot be known at the time of application, or which is determined to be incomplete following submission:

(1) the time at which on-site activities in preparation for the Special Event will begin.

(2) the date and time when clean-up of the property will be complete.

(3) any transportation plan, traffic plan, parking plan or street closure requested for the Special Event.

(4) the number and types of animals and vehicles that are part of the Special Event. The Applicant is responsible for updating this information prior to the event, and the City requirements may be amended as a result of an increase or decrease in the number of animals and/or vehicles expected to attend. The minimum will be the number of advance registrations.

(5) the location and size of tents, awnings, canopies, food service booths, or other temporary structures shall be shown on a map.

(6) details for all requested signage shall be included.

(7) the location and orientation of loud speakers and any other amplification devices shall be shown on a map.

(8) details regarding food service including planned cooking.

(9) details regarding alcohol sales or serving, if any, and if so, a copy of the alcohol permit.

(10) details for planned amusement rides.

(11) map(s) showing streets and pedestrian ways that are impacted as well as site setup showing ingress and egress for pedestrians and vehicles and all equipment and barriers that will be used in connection with the Special Event.

(12) for Parades, a route map, approximate number of participants and type of participants (ex. animals, floats, etc.), and proof that all property owners adjacent to the Parade route have been notified of the route, date and duration of the Parade, or the date by which they will be notified, Such notice shall not be given more than one month in advance and no less than one week.

(13) sales tax permit number(s)

(14) insurance certificate for the Special Event showing the City as an additional insured in the amounts set forth in the Special Events Rules and Regulations as promulgated by the City Manager.

(15) any other information which the City Manager finds is necessary under Special Events Rules and Regulations set forth in Sec. 36-108 or Standards/ Requirements for Issuance of Special Event Permit set forth in Sec. 36-109.

### **Sec. 36-106 Fees and Costs**

(a) The fee for a Special Events Permit will be found in Appendix A of this Code of Ordinances in the event the same are enacted.

(b) Applicant shall pay all required fees, including site rental, with the Special Event Permit Application, and Applicant shall at the same time be required to pay all fees and costs required by other City ordinances to conduct specific activities in conjunction with or as part of a Special Event.

(c) If the City determines that a Special Event may require the special attention and involvement of City personnel or City facilities, the City shall notify the Applicant. Prior to issuance of a Special Event Permit:

(1) Applicant and City shall agree upon the additional costs the City will incur as a result of the Special Event and Applicant shall pay those costs to the City and

(2) Applicant shall agree in writing to pay any additional costs to the City incurred as a result of the Special Event within five (5) days of the date upon which the City informs the Applicant of the amount of such additional costs, but in no event less than seven business days prior to the event.

(d) No Special Event Permit Fee shall be charged for a First Amendment Event. An Applicant for a Special Event Permit shall pay fees for street closures to conduct specific activities in conjunction with or as part of a First Amendment Event, but the

amount of the fees shall not be in excess of the City's cost to close the street(s) for traffic control.

(e) No Special Permit application fees are refundable. If the event does not occur, fees paid in advance for City Services which have not already been used shall be refunded.

### **Sec. 36-107 Timeframes and Deadlines**

(a) A Promoter/Sponsor Checklist shall be filed not more than three hundred sixty-five 365 days or less than sixty (60) days before the commencement of the proposed Special Event. The City Manager may consider a Checklist that is filed less than sixty (60) days before the commencement of the proposed Special Event in the event the Applicant could not have met the deadline because the event had not been planned for more than 60 days and the same will not place an undue burden on the City staff or resources

(b) A Special Event Permit Application shall be filed no more than three hundred sixty-five 365 days or less than twenty-five (25) days before the commencement of the proposed Special Event. The City Manager may consider a Special Event Application that is filed less than twenty-five (25) days before the commencement of the proposed Special Event in the event the applicant could not have met the deadline because the event had not been planned for more than twenty-five (25) days, the same will not place an undue burden on the City staff or resources and applicable late fees, if any, are paid with the application.

(c) The City may issue a Special Event Permit for a First Amendment Event when the Special Event Permit Application is filed less than twenty-five (25) days before the commencement of the First Amendment Event if the event had not been planned for more than twenty-five (25) days, and provided there is adequate time for the City to process the Application and to assure that there are adequate traffic measures in place for the orderly movement of the First Amendment Event participants and traffic. The City and the Applicant shall communicate with the police department and fire department prior to the First Amendment Event.

(d) When a timeframe or deadline established in this Section results in an Application being due on a weekend, holiday or a day the City is closed for business, the Application shall be due on the business day immediately following said weekend, holiday or closed business day.

## **Sec. 36-108 Application Process and Review**

The Special Event Permit Application will be processed and reviewed pursuant to the Special Events Rules and Regulations which shall be promulgated by the City Manager based on health and safety concerns, and the reasonable availability of City resources which may be required, and on other applicable City Ordinances or Code provisions.

## **Sec. 36-109 Standards/ Requirements for Issuance of Special Event Permit**

(a) A Special Event Permit will be issued only if the City Manager finds that he following requirements, as are applicable to the Special Event will be met and that adequate provision therefor will be made:

(1) requirements of City Ordinances/ Code provisions and of the State and Federal Governments are met,

(2) the Special Event will not unnecessarily interrupt the safe and orderly movement of traffic near its location or route,

(3) the Special Event will not require the diversion of a number of police officers to properly police the Special Event locale or movement of a procession or parade along the route and the adjacent areas which will significantly impair adequate police protection for the City as a whole,

(4) the concentration of people, animals, and vehicles at assembly points will not significantly impair proper fire and police protection or ambulance service to areas at or near such assembly points or the City or County as a whole.

(5) a Parade is scheduled to move from its point of origin to its point of termination without unreasonable delays in route,

(6) all licenses and permits, restrictions, regulations, fees for the City services, if any, safeguards or conditions as set forth in any Special Event Rules and Regulations as promulgated by the City Manager have been submitted, and approved.

(b) The City Manager is authorized to interpret and has the authority to modify the same to fit individual circumstances where the standard cannot be strictly met, is inapplicable to the specific Special Event or if additional modifications are deemed necessary by individual City departments for the safe and orderly conduct of a Special Event. The City Manager is further authorized to require an Applicant to

institute other safeguards or activities to protect the safety of the public from circumstances which may arise from a specific Special Event.

(c) It is understood that no Applicant is assured the ability to close a street. All street closures longer than two (2) hours are granted by the City Council, and those two (2) hours or less are granted by the Chief of Police.

### **Sec. 36-110 Denial or Revocation of a Permit**

(a) The City Manager shall deny issuance of a Special Event Permit if:

(1) The Special Event will conflict in time or location with another Special Event or event for which an Application has been submitted or approved prior to the one subsequently requested,

(2) The Special Event, if held, would violate, the Special Event Rules and Regulations, any City ordinance or any other applicable law,

(3) The City manager determines that there is a false or misleading statement or omission of material fact on a Promoter/Sponsor Checklist or Special Event Application, and the same is not corrected within the time for submission of an application,

(4) The Applicant has violated this ordinance or has had a Special Event Permit revoked within the preceding twelve (12) months,

(5) The Applicant fails to provide proof of a license or permit required by any City ordinance or other applicable law for the Special Event,

(6) The Applicant fails to provide proof that the insurance requirements for the Special Event have been met, or

(7) The Special Event would significantly impair the delivery of normal or emergency public services or constitutes a public health or safety threat.

(b) If the City Manager determines that the Special Event Permit shall be denied, the City Manager shall consider alternatives to the time, place or manner of the Special Event that would allow the Special Event to occur.

(c) Revocation of a Special Event Permit:

(1) If the Police Chief, Fire Marshal, Emergency Services Director, Health Department Director or Sanitarian, Building Official or Code Enforcement Officer ("City Official") or their designated representative, finds that any of the provisions of this ordinance, another City ordinance, Special Event Rule or Regulation, or other applicable law is being violated, he or she shall immediately notify the City

Manager and based on that information, the City Manager shall attempt to solve the issue at hand and if it cannot be solved the City Manager will determine whether the Special Event Permit shall be revoked. Notice and an opportunity to be heard by the City Manager shall be given to the Applicant prior to revocation if reasonably possible and if the cause for revocation does not involve an immediate threat to the health and safety of any individual or property. If revoked, the Special Event shall immediately terminate and cease activity upon notification to the Applicant. Failure to terminate the activity shall constitute a separate offense.

(2) When, in the judgment of any of the above designated City Officials, a violation exists which requires immediate abatement, and the Applicant does not abate the violation immediately upon notice from said City Official, the City official shall have authority to revoke a Special Event Permit in the absence or unavailability of the City Manager. If revoked, the Special Event shall immediately terminate and cease activity upon notification to the Applicant.

(3) The City Manager, or other City Official in the absence of the City Manager as described above, may revoke a permit wherein a material false or misleading statement or omission of material fact on a Promoter/Sponsor Checklist or Special Event Application is discovered after the Special Event Permit was issued so that the terms of the permit would require significant revision or if the scope of the Special Event has so changed that the terms of the original permit require significant revision which presents an unreasonable burden on the City resources.

### **Sec. 36-111 Appeal**

- (a) If the City Manager denies the issuance of a Special Event Permit, or revokes an issued Special Event Permit, the Applicant shall promptly be notified in writing. Such written notice shall include the reasons for the decision to deny or revoke the Special Event Permit. The Applicant may appeal the denial or revocation to the City Council which shall make a ruling on the appeal, if time permits prior to the event. The City Council shall not be required to call a special meeting to accommodate an appeal.
- (b) If a City Official other than the City Manager revokes an issued Special Events Permit, the Applicant shall promptly be notified in writing. Such written notice shall include the reasons for the decision to deny or revoke the

Special Event Permit. The Applicant may appeal the denial or revocation to the City Manager which shall make a ruling on the appeal and attempt to resolve the issue if time permits prior to the event. If no resolution can be made, the Applicant may appeal the revocation to the City Council which shall make a ruling on the appeal if time permits prior to the event. The City Council shall not be required to call a special meeting to accommodate an appeal.

(c) If a Special Event Permit is revoked the event shall cease. No fees, whether they are application fees, or fees paid for City services shall be refunded if a Special Event Permit is revoked. The City shall not be liable for any costs or damages associated with denial of or revocation of a Special Events Permit.

-----End of Code Text-----

### **SEVERABILITY OR INVALIDITY**

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, or in any exception to or limitation upon any provision contained herein be held to be unconstitutional, invalid or ineffective, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect, and to this end, the provisions of this ordinance are declared to be severable.

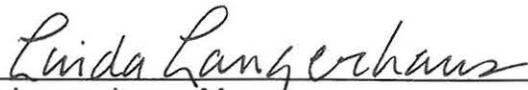
### **EFFECTIVE FOLLOWING PUBLICATION**

This ordinance shall be effective from and after July 1, 2014 following its passage and publication in accordance with the law. The City Secretary of the City of Fredericksburg is hereby directed to publish notice of this Ordinance as required by law to become effective.

**PENALTIES**

Penalties provided for in the Code Ordinances of the city of Fredericksburg shall apply to violations hereof.

PASSED AND APPROVED this the 15<sup>th</sup> day of June, 2014.

  
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Linda Langerhans, Mayor  
City of Fredericksburg, Texas

ATTEST:

  
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Shelley Britton, City Secretary