

ORDINANCE NO. 2011-__-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING THE CODE OF ORDINANCES BY ADOPTING A NEW CHAPTER 87 TO BE ENTITLED "SPECIAL EVENTS"; ESTABLISHING REGULATIONS GOVERNING SPECIAL EVENTS; ESTABLISHING A PURPOSE; PROVIDING DEFINITIONS; ESTABLISHING EXEMPTIONS; ESTABLISHING A PERMIT REQUIREMENT; ESTABLISHING AN APPLICATION PROCESS; REQUIRING INSURANCE; PROVIDING FOR CANCELLATION AND REVOCATION OF A PERMIT; ESTABLISHING AN APPEAL PROCESS; REQUIRING INDEMNIFICATION; PROVIDING A RIGHT OF ENTRY; REQUIRING A SITE PLAN; ESTABLISHING SPECIAL EVENT PROVISIONS AND REQUIREMENTS; ESTABLISHING PARADE STANDARDS AND PROCEDURES; CREATING AN OFFENSE; DISPENSING WITH A CULPABLE MENTAL STATE; PROVIDING A PENALTY; REPEALING ARTICLE VII, "SPECIAL EVENTS," OF CHAPTER 74 OF THE CODE OF ORDINANCES; REPEALING ARTICLE V, "PARADES," OF CHAPTER 90 OF THE CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas (the "City") is a Home Rule City possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City possesses, pursuant to Chapter 311 of the Texas Transportation Code, as amended, the exclusive control over and under the public highways, streets, and alleys of the City; and

WHEREAS, the City possesses, pursuant to Chapter 282 of the Texas Local Government Code, as amended, the exclusive control over and under public grounds of the City; and

WHEREAS, pursuant to Section 217.042 of the Texas Local Government Code, the City Council of the City of McKinney, Texas ("City Council"), has the authority to define and prohibit any nuisance within the limits of the City; and

WHEREAS, the City Council has additional authority to license, tax, suppress, prevent, or otherwise regulate keepers of theatrical or other exhibitions, shows, or amusements pursuant to Section 215.032 of the Texas Local Government Code; and

WHEREAS, there is an increasing number of special events on both public and private land or property within the City necessitating the expenditure of City resources to protect the health and safety of all citizens of the City; and

WHEREAS, the City Council has determined that it is in the best interest of the residents of the City to enact regulations relating to special events as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct legislative and factual determinations of the City Council of the City of McKinney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. A new Chapter 87, "Special Events," of the Code of Ordinances of the City of McKinney is hereby added to read as follows:

“CHAPTER 87. SPECIAL EVENTS

ARTICLE I. GENERAL PROVISIONS

Sec. 87-1. Purpose.

The purpose of this chapter is to enhance the positive image of the City, to stimulate significant economic growth and promote tourism. To this end, it is the City's intent to encourage and give high priority to established special events that have a record of significantly benefiting the City and to special events that promote commercial film development in the City.

Sec. 87-2. Definitions.

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

Applicant means a person, as defined herein.

City means the City of McKinney, Texas.

City Council means the City Council of the City of McKinney.

City Manager means the City Manager of the City of McKinney.

City-Sponsored Special Event means a Special Event that the City Council has:

- (a) determined to be directly related to a recognized function of city government; and
- (b) committed the City to significantly sharing in initiating, financing, supporting, and conducting the event.

Committee means a body comprised of representatives from various City departments.

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

Department means the City of McKinney Police Department.

Established Special Event means a Special Event that:

- (a) occurs at least once a year;
- (b) has an average attendance exceeding 1,000 participants and spectators for each day of the event or activity; and
- (c) is open to the general public, with or without an entry fee.

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.

Facilities means, without limitation, all equipment, materials and apparatus associated with the conduct of the special event, including, without limitation: barriers, cables (electrical or otherwise), safety equipment and devices, water, sound system and related equipment, fencing, fence covering material, signs, tents, vehicles, fire protection equipment and apparatus, medical equipment and apparatus, seals, wiring, banners, structures and components thereof, furniture, furnishings,

special lighting fixtures, trade fixtures and equipment furnished and installed or used in the operation of the event. The quality level, design and appearance of all facilities shall be of high quality appropriate to the circumstances.

Force Majeure means and includes fire, casualty, strikes, lockouts, labor trouble, inability to procure materials or supplies, failure of power, governmental authority, inclement weather, acts of God, war or terrorism or the potential or actual threat thereof, public safety or public welfare considerations, riots, or local, national or international emergencies, or other reason of like nature.

Person means an individual, firm, partnership, corporation, association, organization, or other legal entity.

Special Event means a temporary event or gathering of seventy-five (75) or more persons for a common purpose under the direction or control of a person or entity, including a special event parade, using either private or public property, that involves one or more of the following activities, except when the activity is for construction or house-moving purposes only:

- (a) closing of a public street;
- (b) blocking or restriction of public property, including public rights-of-way;
- (c) sale of merchandise, food, or beverages on public property;
- (d) sale of alcoholic beverages on public or private property where otherwise prohibited;
- (e) erection of a tent or canopy on public property;
- (f) installation of a stage, band shell, trailer, van, portable building, grandstand, or bleachers on public property, or on private property where otherwise prohibited by ordinance; and/or
- (g) placement of temporary informational 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 ordinance.

Special Event Parade means the assembly of seventy-five (75) or more persons whose gathering is for the common design of traveling or marching in procession from one location to any other location for the purpose of advertising, promoting, celebrating, or commemorating a thing, person, date, or event.

Special Event Permit or *Permit* means the City's written authorization to hold a special event. The permit may impose terms and conditions, and is subject to the guidelines of the permit.

Special Event Permit (SEP) Manager means the City official, or his/her designee, designated by the City manager as primarily responsible for managing special events.

Sec. 87-3. General Authority and Duty of SEP Manager.

- (a) The SEP manager shall implement, administer, and enforce the provisions of this chapter.
- (b) The SEP manager has authority to issue a special event permit that authorizes one or more of the activities described in this chapter when the requirements of this chapter have been met.

- (c) In addition to other duties designated by this chapter, the City manager, or the City council, the SEP manager shall provide for the enhancement of commercial film development in the City by assisting the film industry in coordinating traffic and security needs.

Sec. 87-4. Chapter Cumulative.

- (a) The provisions of this chapter are cumulative of all City ordinances. Except as provided in building permits, electrical permits, food establishment permits, alcoholic beverage licenses, tent permits and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the special event, permits must be applied for separately, in accordance with the applicable ordinance or law. The SEP manager must receive any necessary permit or license in addition to the special event application in order for an applicant to obtain a special event permit.
- (b) Application for a special event permit authorizes the SEP manager to issue permits for the activities described in this chapter in locations where the activity would otherwise be prohibited by ordinance.

Sec. 87-5. Exemptions.

The following are exempt from the operation, rules, and regulations of this chapter:

- (a) A private party held on private property and to which the public is not invited, provided such party does not impact public rights-of-way or involve activities or facilities not permitted by applicable zoning regulations;
- (b) An event wholly contained on property specifically designed or suited for the event and that holds a certificate of occupancy for such use including adequate parking (e.g., a hotel ballroom);
- (c) Funeral processions;
- (d) Activities under the control of the City of McKinney Park and Recreation Department conducted on City property that do not affect public rights-of-way;
- (e) Unorganized gatherings;
- (f) A demonstration, parade or assembly related to the expression of feelings and beliefs on current political, religious, or social issues at a fixed location other than a public right-of-way (sidewalk or street); and/or
- (g) An event approved by the administrator of the McKinney Performing Arts Center ("MPAC") and wholly located within MPAC.

Article II. SPECIAL EVENT PERMITS

Sec. 87-10. Permit Required.

- (a) No special event may be held within the City without first obtaining a special event permit. Special event permits are issued by the Department. A special event application form may be obtained from the office of the SEP manager or as otherwise provided by the Department. All applications shall be reviewed on a case-by-case basis.
- (b) Except as otherwise provided in this chapter, a special event application form must be completed and submitted to the SEP manager no fewer than:

- (1) 45 days prior to a proposed special event, excluding special events for an expressive activity; or
- (2) 10 days prior to a proposed special event involving expressive activity.

The SEP manager may waive the above requirements if the application can be processed in a shorter time period, taking into consideration the nature and scope of the proposed event and the number and types of permits required to be issued in conjunction with the special event permit.

- (c) The issuance of a special event permit grants permission to use public property proposed to be used in connection with the special event and/or authorizes the use of private property in a manner not otherwise permitted by the code in connection with the special event (the "licensed premises"). The use of such licensed premises shall be solely for the purpose of constructing, installing, operating and maintaining the special event, and for such other purposes consistent with promoting and conducting the special event as the SEP manager authorizes in writing.
- (d) The issuance of a special event permit authorizes appropriate City departments to issue permits for activities in connection with the authorized event in locations where such activities would otherwise be prohibited by ordinance.
- (e) Setup is allowed no earlier than the day immediately preceding the day of the event and must be completely removed before noon on the next succeeding business day after the event, unless otherwise determined. The placement of signs for a special event shall be in compliance with Chapter 134, "Sign Code," of the City of McKinney Code of Ordinances.
- (f) The City and its officials, officers, employees and agents shall not be liable for any damage to or loss of any such property or facilities sustained during removal or storage of such property, equipment, tents or other facilities and the permittee shall indemnify the City, its officials, officers, employees and agents against all claims for any such damage or loss.
- (g) Issuance of a special event permit does not authorize removal or alteration of public property and any such removal or alteration is strictly prohibited except as expressly allowed in writing by the SEP manager, or other authorizing official.
- (h) In addition to complying with all conditions of the permit and all applicable City ordinances, regulations, rules, policies and guidelines, the permittee must comply with all applicable federal, state and county laws, rules and regulations.
- (i) A permittee may not and shall have no authority to assign, sell, transfer, pledge, encumber or otherwise convey a permit or any rights, duties, responsibilities or obligations thereunder, and any such conveyance shall be null and void and may, in the discretion of the City, result in the revocation of the permit.
- (j) No rights granted by a permit shall create rights in anyone other than the permittee.

Sec. 87-11. Application Process.

- (a) The applicant shall contact the SEP manager to discuss desired or available dates for the event. An event returning to the district or other location within the City for a successive year (a "returning event") may be given priority consideration for the same time period in which it was held in the previous year(s).

(b) At minimum, and in addition to the information required in this Article II, the application must contain the following information, all of which is public information subject to the Texas Public Information Act and other applicable law:

(1) *Applicant information.* Applicant's name, organization name, type of organization; a representation that the applicant and organization are in good standing under the laws of the State of Texas and the United States; address, including city, state, zip code, e-mail address and web site address; mobile telephone number; telephone number; facsimile number; driver's license number; date of birth; and on-site contact name and mobile telephone number.

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;

(2) *Event information.* Event name; dates and times requested; type of event; any previous dates such event has been held; previous attendance; expected attendance; whether the event will be open to the public; admission fee; estimated budget; proposed event area; setup dates; teardown dates; event sponsors; and event beneficiaries;

(3) *Event special features.* Plans for sound amplification; stage; dance floor; food and beverage service, including participating concessionaires and caterers; sale or distribution of alcohol; open flames; cooking; road closures; tents or canopies; temporary fencing; restrooms; sinks; dumpsters; trash containers; trash collection; electrical service; rentals; professional parking/valet; carnival or amusement rides or attractions; climate control; pyrotechnics; seating; animals; barricades; bicycles; decorations; golf carts; inflatables; security; transportation; signage; ticket sales; and any other special features planned for or in conjunction with the event;

(4) *Insurance.* The permittee shall, at its own expense, procure, pay for and maintain the following insurance written by companies approved by the State of Texas and acceptable to the City. The permittee shall furnish to the City certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Certificates shall reference the special event and be addressed as follows:

City of McKinney
c/o EBIX BPO
P O Box 257
Portland, MI 48875-0257

Or you may email to:
certsonly@periculum.com

a. Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000 per occurrence, \$1,000,000 Products/Completed Operations Aggregate and \$1,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

- b. Liquor Liability insurance, either endorsed onto the above policy or written on a “stand alone” basis, if any of the following applies:
 - 1. The Applicant is in the business of manufacturing, selling, or distributing alcoholic beverages;
 - 2. The Applicant serves or furnishes alcoholic beverages for a charge, whether or not such activity requires a license or is for the purpose of financial gain or livelihood; or
 - 3. The Applicant serves or furnishes alcoholic beverages without a charge, if a license is required for such activity.
- c. Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000 per occurrence.

The Applicant shall endorse applicable insurance policies as follows:

- a. The City of McKinney, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader.
- b. The City of McKinney, its officials, employees and officers shall be named as additional insureds on any required Liquor Liability policy.
- c. All insurance policies shall be endorsed to the effect that the City of McKinney will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or material change of the policies.

All insurance shall be purchased from an insurance company that meets a financial rating of B+VI or better as assigned by A.M. Best Company or equivalent.

An applicant may request an exception from this insurance requirement, if the applicant:

- a. executes 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; or
- b. agrees to redesign or reschedule the proposed event to respond to specific risks, hazards and dangers to the public health and safety identified by the committee as being reasonably foreseeable consequences of the proposed event.

The insurance requirements for special events involving expressive activity which enjoy protection under the United States or Texas constitutions may be waived by the committee if the special event involving expressive activity poses no substantial risk of public liability or property damage.

- (5) *References.* List of four (4) organizations an applicant has done business with in connection with the proposed event;
 - (6) *Advertising and promotion.* Listing of types of advertising and promotion, including radio, television, print ads, press releases, fliers, posters, direct mail, etc.; and
 - (7) *Application fee.* A non-refundable application fee of twenty-five dollars (\$25.00), plus any costs incurred by the City, must be submitted with the application and is required for each permit or renewal of a permit, which permit shall extend only to those dates requested in the application and which are approved by the committee.
- (c) Fees must be in the form of a check, money order or credit card (as directed by the SEP manager) in the name of the organization stated on the application and shall be made payable to the City of McKinney. Any amounts invoiced by the City must be paid within 30 days from the date of the invoice. Amounts not paid within thirty (30) days shall incur a late fee of one percent (1%) of the outstanding balance for each month payment is not received.
 - (d) The committee shall review the application and make its determination within:
 - (1) fourteen (14) days after a complete application for a special event, including all required fees and licenses and/or permits, has been submitted to the SEP manager, unless the application is for a special event involving expressive activity; or
 - (2) five (5) days after a complete application for a special event involving expressive activity, including all required fees and licenses and/or permits, has been submitted to the SEP manager;

If the SEP Manager determines that clarification or additional information is necessary for proper consideration of an application, this time period may be extended an additional ten (10) days from the date clarification or additional information is provided. The committee may approve, approve with conditions, or deny an application. The SEP Manager, or his designee, may also revoke a permit if he/she determines at any time after approval that the event is not in compliance with the permit or with this chapter.

In making a final determination to approve an application, each of the following factors shall be considered:

- (1) whether the application establishes that there will be ample opportunity to properly plan and prepare for the event;
- (2) whether the proposed dates or location conflict with another event or activity;
- (3) whether the applicant has previous professional experience with hosting an event of the nature or scope proposed;
- (4) whether the proposed event has been held within the City on a previous occasion;
- (5) whether police, fire, or other City services will be unduly burdened or adversely affected by the event;
- (6) whether the event is reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance; and

- (7) such other factors as the committee may deem necessary or important in evaluating an application.
- (8) The following additional factors may be considered:
 - a. whether the event is likely to promote tourism by attracting tourists; and/or
 - b. whether the event is likely to have a positive economic impact by generating revenue for McKinney hotels, restaurants and other merchants of the City.
- (e) The SEP Manager shall notify an applicant in writing of the committee's decision to deny or approve an event. If an application is approved, the notification must advise the applicant of the minimum staffing levels for the event, any specific requirements imposed pursuant to Article III of this Chapter, and the time frame for completing such requirements.
- (f) A special event cancelled or postponed by the City on public property due to a force majeure may be rescheduled within ninety (90) days following its original date subject to availability of the scheduled location. There shall be no charge for such rescheduling.

Sec. 87-12. Directives of SEP Manager or Other Authorizing Official.

The permittee shall comply with the printed guidelines and with all other reasonable rules, regulations and directives of the SEP Manager or his/her designee as may be issued from time to time.

Sec. 87-13. Force Majeure.

- (a) The City may, in its sole discretion, postpone, cancel, suspend or close any special event or revoke a permit for any force majeure event.
- (b) The City shall have no liability for such postponement, cancellation, suspension or closing. Further, the City shall have no liability for failure to postpone, cancel, suspend, or close a special event for a force majeure event or any other reason.

Sec. 87-14. Cancellation and Revocation.

- (a) The SEP manager 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;
 - (2) an established special event is customarily held at the same place and time as the proposed special event;
 - (3) the proposed special event will occupy any part of a freeway, expressway, or toll road;
 - (4) 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;
 - (5) the applicant fails to adequately plan for:
 - a. the protection of special event participants and spectators;
 - b. maintenance of public order in and around the special event location;

- c. crowd security, taking into consideration the size of the event;
 - d. emergency vehicle access; or
 - e. portable restroom facilities for the special event as required by the special event committee.
- (6) 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 chapter;
 - (7) the applicant makes a false statement of material fact on an application for a special event permit or fails to properly complete an application for a special event permit;
 - (8) the applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by another City ordinance or other applicable law for the conduct of all activities included as part of the special event;
 - (9) the applicant has had a special event permit revoked within the preceding 14 months;
 - (10) the applicant has committed, within the preceding 14 months, two or more violations of a provision of a special event permit of this chapter;
 - (11) the applicant fails to pay any outstanding fees assessed under this chapter for the proposed special event or for a past special event;
 - (12) the applicant has conducted or sponsored one or more special event(s) within the City on at least 60 days of the same calendar year during which the proposed special event is to be held, except that this 60-day limitation does not apply to a special event that involves a commercial movie production;
 - (13) the chief of the police department, the chief of the fire department, or the SEP manager determines that the special event would pose a serious threat to the public health, safety, or welfare;
 - (14) the applicant 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 applicant or other person;
 - (15) the applicant has a history of conducting or sponsoring special events in a disorderly, unsafe, unsanitary, or fiscally irresponsible manner;
 - (16) an event has been previously scheduled for the same time on property described in this chapter that is adjacent to the location of the proposed special event; or
 - (17) the applicant, if it is a corporation, fails to provide copies of a current certificate of account status and current certificate of existence as required by Section 87-11(b)(1).
- (b) The SEP manager shall revoke a special event permit if:
- (1) the permittee 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 permittee made a false statement of material fact on an application for a special event permit or failed to properly complete an application for a special event permit;
- (3) the chief of the police department, the chief of the fire department, or the SEP manager determines that the special event poses a serious threat to the public health, safety, or welfare;
- (4) the permittee failed to pay any outstanding fees assessed under this chapter for the proposed special event or for a past special event;
- (5) the permittee or any other person responsible for the conduct of the special event is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the permittee or such other person;
- (6) the permittee, if it is a corporation, failed to provide copies of a current certificate of account status and current certificate of existence as required by Section 87-11(b)(1); or
- (7) the permittee is found guilty or pleads guilty or no contest to a citation alleging a violation of this chapter.

Sec. 87-15. Appeal from Denial or Revocation of a Special Event Permit.

If the SEP manager denies the issuance of a permit or revokes a permit, the SEP manager shall issue written notice of the denial or revocation and of the right to an appeal. The applicant or permittee may appeal the decision of the SEP manager to the City Manager within five (5) days after the date of the denial or revocations. If such appeal is not made within this five (5)-day period, the decision of the SEP manager and/or committee shall be final. The appeal shall be decided by the City Manager within ten (10) days after the date of a timely filed appeal.

Sec. 87-16. Appeal of Permit Conditions.

A permittee who disagrees with the requirements imposed by the committee on a permit issued under this Chapter may appeal the to the Chief of Police setting forth the specific condition contested and the basis for the appeal within five (5) days of the date of permit approval. The Chief of Police shall issue his/her decision within 10 days and the decision of the Chief of Police shall be final.

Sec. 87-17. Right of Entry.

The City through its officials, employees, agents, and representatives shall have the right at all reasonable times to enter upon all permitted premises for the purpose of inspecting the permitted premises, for observing the performance of obligations under this chapter, and for the doing of any act or thing which the City may be obligated to or have the right to do under the permit, this chapter, or other applicable City ordinance, rule or regulation.

Sec. 87-18. Site Plan.

- (a) A conceptual site plan of the premises to be used for the event must be submitted at the time of the filing of an application for a permit.
- (b) A final site plan, which must be approved by the SEP manager or other reviewing official, must be submitted a minimum of 10 days prior to the event.
- (c) The final site plan must be detailed and drawn to scale. It must show the location of all facilities. It must show the location and orientation of

loudspeakers, locations for electricity and water, and any other relevant elements.

- (d) Once the final site plan is approved, it cannot be altered without the prior written consent of the City; however, non-substantial on-site adjustments to the conceptual or final site plan may be made in consultation with the SEP manager.
- (e) A walk-through with the SEP manager, or his designee, to verify that the actual setup of the event site meets with the approved final site plan shall be conducted prior to the event opening.

Article III. SPECIAL PROVISIONS AND REQUIREMENTS

Sec. 87-25. City Services.

To best serve the safety and welfare of the public, the following services shall be provided by the City when required (as determined by the special event committee) in conjunction with a special event.

- (a) Police protection, security and crowd control.
- (b) Fire protection, emergency medical services, and emergency management services.
- (c) Park maintenance.
- (d) Public works: street closures and water services.
- (e) Traffic and parking control.
- (f) Development services: building inspections, environmental health compliance, code, et al.

Sec. 87-26. Street Closure Plan.

Certain streets within the City may be temporarily closed to limit or exclude vehicular or pedestrian traffic prior to, during or after a special event. An applicant requesting street closure(s) for a special event shall submit for approval a traffic control plan approved by the committee showing the layout of all barricades and signs at the time of application. The committee shall consider such request in evaluating the application and may recommend additional or fewer street closures. Some street closures may require consent of businesses and property owners in the adjacent area. Should street closures be approved, the City of McKinney Street Department shall supervise the placement of all barricades and signs placed on public streets or on any public rights-of-way.

Sec. 87-27. Outdoor Activities.

- (a) Any outside area to be occupied by persons attending the event must be completely enclosed by a temporary (during the term of the event only) interlocking fence if alcohol is served or allowed to be consumed in such area. If required fencing crosses a fire lane, a 20-foot wide emergency gate must be utilized and kept closed. The gate must be kept closed, but unlocked, at all times to accommodate public safety vehicles and provide an emergency exit. The fencing set-up must ensure that customers are not forced to re-enter an adjacent structure, if any, in order to vacate the licensed premises in case of an emergency.
- (b) All outdoor activities and entertainment must be confined to the area within the licensed premises (and if fencing is required by paragraph (A) of this section, then such activities and entertainment must be confined to the area within the fencing).

- (c) All fire lanes throughout the property on which the event takes place must be kept completely unobstructed by vehicular traffic.
- (d) Any portion of the licensed premises where alcohol is served, if less than the entire licensed premises is utilized for alcohol service, must be covered by a roof.

Sec. 87-28. Parking.

- (a) If parking needs for the event are expected to exceed the area(s) owned by or assigned to the host establishment(s), appropriate parking arrangements must be made with affected properties or establishments.
- (b) Any required handicapped parking space affected by the outdoor fencing for the event must be temporarily replaced using a space(s) outside the fenced area that is as close as practicable to the entrance to the establishment. Such temporary space must meet all requirements for handicapped spaces including the required "clear zone" on the driver's side of the vehicle and appropriate signage.

Sec. 87-29. Alcoholic Beverages.

- (a) Sales or service of alcoholic beverages must be in compliance with Section 14-21, as amended, of this Code.
- (b) Access points into the licensed premises must be constantly manned to prevent patrons from entering or exiting with alcoholic beverages.
- (c) A copy of the permit to use public property must be provided to the Texas Alcoholic Beverage Commission ("TABC") or its successor agency.
- (d) Any required permit or letter of approval from the TABC and the City must be posted on the premises where the event takes place.
- (e) An alcoholic beverages permit must be applied for with the City Secretary 45 days in advance of special event where alcohol will be sold or served, in accordance with the requirements of Chapter 14 of this Code.
- (f) A copy of a current permit from TABC authorizing the permittee to sell, dispense or otherwise serve alcohol at the location must be submitted 12 days prior to the event.

Sec. 87-30. Electrical Work.

Any electrical work performed in connection with the event must be performed by a licensed electrician registered with the building inspection department to do work within the City of McKinney.

Sec. 87-31. Tents and Canopies.

A flame-spread certificate must be obtained from the tent or canopy supplier for each tent and/or canopy used at the event. Such certificate(s) must be readily accessible for inspection by McKinney Fire Department personnel.

Sec. 87-32. Outdoor Food Handling and Food Service Area.

- (a) A 10-foot separation must be provided between the grill or other cooking device and any structure or any materials that may burn.
- (b) Food handling must be in accordance with the City of McKinney Environmental Health Compliance's *Temporary Event Guidelines*, as amended.

- (c) At least one chemical fire extinguisher rated at 2A-10BC or larger must be provided in the cooking area and in each tent in accordance with the requirements of the City of McKinney Fire Code. In addition, if charcoal or wood is used for cooking, an approved water fire extinguisher of at least two and one-half gallons must be provided.

Sec. 87-33. Concessions.

- (a) Concessionaires and caterers must be approved by the City. Where otherwise required by law, concessionaires and caterers must obtain a health permit from the McKinney Environmental Health Compliance a minimum of 72 hours prior to the event and pay any required fees for temporary food service licenses.
- (b) A certified bartender shall be used for the service of alcohol when required by the SEP manager or another authorizing official, or when otherwise required by law.
- (c) The permittee shall ensure that participants, spectators, and patrons do not carry alcoholic beverages into or out of the licensed premises.

Sec. 87-34. Noise.

No loud, excessive or unusual noise is allowed between the hours of 11:00 p.m. and 7:00 a.m. during setup, operation or teardown of an event. Failure to comply with a request from the Department concerning noise may result in the immediate revocation of the special event permit. Outdoor music must be provided at a volume level that is not distracting to drivers on adjacent or nearby streets and that is not disturbing to residents or adjacent businesses.

Sec. 87-35. Signs.

- (a) All signs used in connection with a special event shall be professionally executed and must comply with all applicable ordinances, rules, and regulations of the City of McKinney, and be approved in writing by the SEP manager.
- (b) Written permission from the City must be obtained prior to placing signs on public property. The design and content of signs placed on public property must be approved by the City. Signs placed on public property must be designed and constructed such that they do not leave adhesive residue on property when removed. Inflated signs anchored to the ground, a building, or other structure are prohibited.
- (c) Permanent, existing signs on public property may not be removed or covered.
- (d) The McKinney Street Department shall supervise the placement of all directional or promotional signs placed on public streets. The rental cost of directional signs is the responsibility of the applicant and payment is required in advance of the event.

Article IV. PARADES

Sec. 87-50. Standards for Issuance.

The SEP manager shall issue a permit under Article II of this chapter for a special event parade when, from a consideration of the application and from such other information as may otherwise be obtained, the special event committee finds that:

- (a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route or substantially

interrupt the safe and orderly movement of other pedestrians on the sidewalk;

- (b) The conduct of the parade will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City;
- (c) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (d) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (e) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire;
- (f) The conduct of the parade is not reasonably likely to cause injury to persons or property, or create a disturbance; and
- (g) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

Sec. 87-51. Alternate Permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within seven (7) days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this article.

Sec. 87-52. Conduct of Participants During Parade.

- (a) Parade participants shall not throw any articles, such as candy, toys, beads, etc., to spectators during the conduct of the parade.
- (b) Parade participants shall not engage in any conduct that may endanger other participants or spectators.
- (c) Parade participants will register with the parade chairman, who will present a list of participants and related information to the chief of police.

Sec. 87-53. Public Conduct During Parade.

- (a) No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- (b) No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade, unless as directed by uniformed law enforcement personnel.
- (c) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along any street or highway or part hereof constituting a part of the route of a parade. The chief of police shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

ARTICLE V. ENFORCEMENT

Sec. 87-60. Offenses.

- (a) A person commits an offense if the person commences or conducts a special event:
 - (1) Without a special event permit; or
 - (2) In violation of any provision of a special event permit, this chapter, or any other City ordinance or applicable law, rule, standard, or regulation.
- (b) A culpable mental state is not required for the commission of an offense under this section.

Sec. 87-61. Penalty.

- (a) A person who violates a provision of this chapter 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 continues.
- (b) Each offense is punishable by a fine not to exceed:
 - (1) \$2,000.00 for a violation of a provision of this chapter or a requirement of a special event permit governing fire safety, zoning, or public health and sanitation, including dumping or refuse; or
 - (2) \$500.00 for all other violations of this chapter or requirements of a special event permit.”

Section 3. Article VII, Chapter 74, “Special Events,” of the Code of Ordinances of the City of McKinney is hereby repealed in its entirety.

Section 4. Article V, Chapter 90, “Parades,” of the Code of Ordinances of the City of McKinney is hereby repealed in its entirety.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 7. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7TH DAY OF JUNE, 2011.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney