

ORDINANCE NO. 2023-05-__16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS AMENDING CHAPTER 87 OF THE CITY'S CODE OF ORDINANCES, "SPECIAL EVENTS," OF THE CODE OF ORDINANCES BY ESTABLISHING AN EXEMPTING FROM THE CITY'S SPECIAL EVENTSON TO THE PERMIT REQUIREMENTS THOSEFOR EVENTS OR PROGRAMMING ACTIVITIES APPROVED BY THE DIRECTOR OF THE CITY'S LIBRARY DEPARTMENT DIRECTOR, OR HIS/HER DESIGNEE, AND WHOLLY LOCATED WITHIN A CITY-CONTROLLED LIBRARY PROPERTY; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of McKinney, Texas ("City Council") previously adopted certain regulations governing special events located within the City of McKinney ("Special Events Ordinance"), as codified in Chapter 87 of the Code of Ordinances of the City of McKinney, Texas; and

WHEREAS, the Special Events Ordinance currently exempts several types of events from the regulations of said ordinance, including those events approved by the Director of the McKinney Performing Arts Center ("MPAC") wholly located within MPAC and those events approved by the City's Director of Parks and Recreations located wholly on City-controlled parkland; and

WHEREAS, the City's library department regularly of the City of McKinney ("City") hosts events of the size and scope that would require a fall under the regulations contained in the Special Events Ordinance permit; and

WHEREAS, other City departments hosting similar events are currently exempted from the special events permit process; and

WHEREAS, the City Council seeks to further amend the City's Special Events Ordinance to exempt those events that are approved by the City's Library Department Director and wholly located within City-controlled library property; and

WHEREAS, the City Council believes it is in the best interest of the residents of the City of McKinney to revise the Special Events Ordinance of the City of McKinney, Texas, desires to amend the City Code of Ordinances, Chapter 87, Article I, "General Provisions," to provide good and efficient government for the benefit of the citizens of the City as provided for herein.

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

Section 1. FINDINGS

All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. ~~From and after the effective date of this Ordinance, Chapter 87, Article I, entitled "General ProvisionsSpecial Events," of the McKinney Code of Ordinances of the City of McKinney, Texas, is hereby deleted in its entirety and replaced with a new Chapter 87, Article 1 amended by amending, Section 87-5, entitled "ExemptionsGeneral Provisions," to hereafter read as follows:~~

"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:~~

~~(1) Determined to be directly related to a recognized function of city government; and~~

~~(2) 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:~~

~~(1) Occurs at least once a year;~~

~~(2) Has an average attendance exceeding 1,000 participants and spectators for each day of the event or activity; and~~

~~(3) 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.~~

~~*Independent route* means a race route that is identified by an event organizer for its race that does not involve a restricted use street, save and except the limited use of FM 2478 pursuant to section 87-26. An event organizer is responsible for securing labor and devices from a state-certified traffic control device provider.~~

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

~~*Preferred route* means a route that has been identified by the city as a race route presenting minimal residential/commercial impact and is assigned discounted rates on city services and equipment.~~

~~*Restricted use street* means a street or arterial roadway that has been identified by the city as unsafe for pedestrian and cycling race activities due to traffic speeds and volumes.~~

~~*Special event* means a temporary event or gathering of 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:~~

~~(1) Closing of a public street;~~

~~(2) Blocking or restriction of public property, including public rights-of-way;~~

~~(3) Sale of merchandise, food, or beverages on public property;~~

~~(4) Sale of alcoholic beverages on public or private property where otherwise prohibited save and except to the extent the director of the city's parks and recreation department has prohibited, or a recreational center policy prohibits, the sale and use of alcohol on city-controlled parkland and/or recreation centers as requested for such an event;~~

~~(5) Erection of a tent or canopy on public property;~~

~~(6) 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~~

~~(7) 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 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) coordinator* means the city official, or his/her designee, designated by the city manager as primarily responsible for managing special events.~~

~~*Trail use fee* means a fee issued by the city's parks and recreation department to cover site maintenance costs and restoration costs of race activities on city trails.~~

~~Sec. 87-3. – General authority and duty of SEP coordinator.~~

~~(a) The SEP coordinator shall implement, administer, and enforce the provisions of this chapter.~~

~~(b) The SEP coordinator 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 coordinator 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, such non-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 coordinator 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:

- ~~(1) 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;~~
- ~~(2) 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);~~
- ~~(3) Funeral processions;~~
- ~~(4) Activities approved by the director of the city's parks and recreation department, or his/her designee, that are held under the control of the city's parks and recreation department conducted on city-owned property that do not affect public rights-of-way;~~
- ~~(5) Unorganized gatherings;~~
- ~~(6) 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~~
- ~~(7) An event approved by the administrator of the McKinney Performing Arts Center ("MPAC") and wholly located within MPAC.~~
- ~~(8) An event or programming activity approved by the director of the city's parks and recreation department, or his/her designee, and wholly located within a city-controlled parkland and/or a recreation center.~~
- ~~(9) An event or programming activity approved by the director of the city's library department, or his/her designee, and wholly located within a city-controlled library property."~~

Section 3. REPEALER CLAUSE

All ordinances, orders, or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, conflict with this Ordinance.

Section 4. SAVINGS CLAUSE

All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. SEVERABILITY CLAUSE

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 6. PUBLICATION OF CAPTION

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council's adoption hereof as provided by law.

Section 7. EFFECTIVE DATE

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.

~~Section 3. 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 16TH DAY OF MAY, 2023.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney