

ORDINANCE NO. ~~27~~-3762

AN ORDINANCE AMENDING THE CITY OF PLAINVIEW, TEXAS CODE OF ORDINANCES BY ADDING ARTICLE 12.17 ENTITLED "SPECIAL EVENTS" ESTABLISHING A PERMITTING PROCESS TO GOVERNING SPECIAL EVENTS WITHIN THE CITY AND ON PUBLIC PROPERTY; PROVIDING FOR A PENALTY NOT TO EXCEED \$500.00 FOR FAILING TO OBTAIN A PERMIT; PROVIDING AN EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council for the City of Plainview, Texas pursuant to the constitution and laws of the State of Texas including, but not limited to, Article 11, Section 5 of the Texas Constitution as a home rule city, has the authority to set forth ordinances and regulations and exercise its police powers for the public health, safety, morals, or general welfare of the citizens of the City of Plainview; and

WHEREAS, the City Council believes that special events and festivals can contribute to the unique character and vitality of the city and serve to stimulate economic growth and promote tourism thus significantly benefitting the city; and

WHEREAS, special events and festivals can have an impact on public safety by impeding the flow of vehicular and pedestrian traffic; and

WHEREAS, the City Council of the City of Plainview, finds the following addition to the Code of Ordinances for the City of Plainview establishing a special event permitting process will enable the City's emergency and safety personnel to plan, prepare and respond to issues affecting the public safety during special events and festivals and are reasonable and beneficial for the public health, safety and general welfare of the citizens of Plainview and a proper exercise of its police power;

NOW THEREFORE, THE CITY OF PLAINVIEW HEREBY ORDAINS THAT:

SECTION 1. The Code of Ordinances of the City of Plainview Texas, is hereby amended by adding Article 12.17.000 to read as follows:

Article 12.17 SPECIAL EVENTS

Sec. 12.17.001 Definitions

In this article these words have the meaning indicated unless a different meaning clearly appears from the context:

Applicant. A person who has filed a formal written application with the city for obtaining a special event permit.

City. The City of Plainview, Texas.

Community Services Secretary. A member of the administrative staff in the Community Services Department charged with receiving permit applications. The City Secretary may also perform the duties of the Community Services Secretary under this article.

Permit holder. The person to whom a special event permit is granted pursuant to this article.

Permit Committee. As used in this article, the term "permit committee" shall mean a committee comprised of city staff appointed by the city manager to review all special event permit applications to ensure compliance with this article.

Special event or event. Any event, festival, parade, meeting or gathering that is temporary in nature, whether for-profit or non-profit, and (i) is held at a specific location within the city limits on public or private property, which attracts or can be expected to attract more than 200 persons at any instant during the special event; or (ii) regardless of size or participation, will require special needs for traffic control or a street closure. The term does not include an event or gathering that occurs within or on the same property as an established permanent athletic stadium, arena, auditorium, conference center or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons. The term does not include a parade or procession that is governed by Article 12.15 of the Code of Ordinances of the City of Plainview.

Street. Any public or private street, sidewalk, alley, right-of-way, avenue, lane, boulevard, drive, public place or highway commonly used for vehicular or pedestrian travel within the city.

Sec. 12.17.002 Authority of the Permit Committee

The permit committee shall have the authority to issue a permit for special events when requirements of this article have been met and shall perform all duties assigned to it under the terms of this article. The provisions of this article shall be administered and enforced by the City Manager or their designee and the City Manager is authorized to establish additional protocols, policies and guidelines consistent with the terms of this article.

Sec. 12.17.003 Permit Required

(a) It shall be unlawful for any person to promote or conduct a special event without first having applied for and obtained a permit from the permit committee pursuant to the requirements outlined in this article.

(b) The permit committee may, at its discretion, authorize the issuance of a single permit for a series of special events so long as the series of special events are:

- (1) essentially identical in all material aspects except for the days on which they occur;
- (2) the special events all occur within the same calendar year;
- (3) the dates on which the special events will occur are known and included in the permit application; and
- (4) all other provisions of this article are followed.

Sec. 12.17.004 Application Procedure

(a) An application for a special event that does not require a road closure governed by the Texas Department of Transportation must be filed not more than 120 days nor less than 15 days before the special event is to begin. The City Manager may waive the 15 day filing requirement if it is determined that the application can be processed in less than 15 days, taking into consideration the size of special event, whether special accommodations must be made such as street closures, and the number and types of additional permits or licenses required to be issued to hold the special event. An application for a special event that requires a road closure governed by the Texas Department of Transportation must be filed not more than 120 days nor less than 60 days before the special event is to begin.

(b) The application shall be filed with the Community Services Secretary. Upon receiving the application, the Community Services Secretary shall notify the other members of the permit committee and schedule a meeting to review the application. At the City Manager's discretion, due to the nature of the special event being applied for, the City Manager may include the Fire Chief, the Chief Building Official, and/or other appropriate official as additional members of the permit committee for purposes of reviewing the application.

(c) The application for a special event shall contain, at a minimum, the following information:

- (1) The name, resident address, e-mail address and telephone number of the applicant.
- (2) The type and purpose of the event.
- (3) A full and complete description of the location upon which the event is to be located.
- (4) The dates and times the event will start and end and the time at which on-site activities in preparation for the event will begin.
- (5) The estimated number of people who may attend the event.
- (6) Written permission showing the consent from the owner of the property or their authorized representative for the use of the property. For an event involving the use of property owned or controlled by another governmental entity (i.e. the county, school district, etc.), including county streets, the applicant is required to obtain permission to use that property from an authorized official of the respective entity. The applicant is responsible for obtaining and providing proof of such permission. Due to the location, size or proposed use of the governmental entity's property, the permit committee may require the approval of the appropriate governing body.
- (7) A site plan or map of the proposed location for the special event depicting the approximate location, size and orientation of any tents, awnings, canopies, loud speakers, booths, fences, barricades, restrooms or portable toilet facilities, lighting, and other temporary structures. The site plan shall include any other information required by this article.
- (8) Details of any electrical, mechanical or plumbing work to be conducted to prepare for or to hold the event and if so, evidence showing how it will be done in accordance with the city's adopted building codes.
- (9) Details showing the location of trash containers in adequate numbers that shall be placed at convenient locations for the use of the public during the special event, and an explanation of how the trash containers will be serviced and emptied during and after the event.
- (10) For events where alcoholic beverages may be provided or served, a detailed description of how the alcoholic beverages will be made available, including the projected quantity and type of alcoholic beverages that may be present.

(11) For events requiring a street closure or where alcoholic beverages may be provided, sufficient detail in the application or on the site plan or map to address public safety including details regarding emergency vehicle ingress and egress and provision of additional emergency medical services or personnel.

(d) *Insurance.* The applicant shall obtain insurance or bonds as deemed necessary by the permit committee to protect the public, to ensure that the permit conditions are complied with, or to ensure that the applicant will be able to pay any claims which may arise out of the proposed activity. The permit committee may establish the types and amounts of coverage including, but not limited to, public liability insurance, commercial general liability insurance, liquor liability insurance and/or business automobile liability insurance. The permit committee may require the insurance policies name the city as an additional insured under such policies.

(e) *Indemnification.* The applicant shall, as a requirement for being granted a special event permit, agree to indemnify and hold the city and each of its elected officials, and employees, harmless from any and all claims, demands, liabilities, losses, costs, actions, causes of action, and attorneys' fees incurred by or alleged against the city arising from or in any way relating to holding a special event that has received a special event permit from the city.

(f) *Exemptions.* The following may be conducted within the city without obtaining a special event permit.

(1) Private parties held on residential private property and to which the public is not invited and where such party does not impact public rights-of-way or involve activities or facilities not permitted by applicable zoning regulations.

(2) Funeral processions.

(3) Events held in a city park where a park permit has been issued.

(g) *Application/Permit Fee.* The application/permit fee for a special event will be established by the applicable fee schedule adopted by the city council. The applicant may incur additional costs related to human or other resources required for the event in accordance with this article.

(h). *Trash Removal/Cleanup After Event.* The permit holder is solely responsible for the cleanup of all trash and debris at the site of the event. Within twenty-four (24) hours of the conclusion of the event, city officials may inspect the site to ensure that compliance with this provision has been met. In the event trash and debris originating from the event has not been cleaned up to the satisfaction

of the city officials and it becomes necessary for the city to clean up the site, the permit holder shall be considered in violation of this article and may be assessed and billed the city's reasonable and necessary expenses incurred in cleaning up the site and removing any trash and debris.

Sec. 12.17.005 Street Closures; Parking

(a) If the site plan provided by the applicant indicates proposed streets to be closed or the permit committee requires that certain streets be closed for the special event, the permit committee or its designee will review all proposed street closures to ensure that proper traffic-control measures will be in place. Street closures will only be provided by the city.

(b) Closures involving state highways must also be approved by the Texas Department of Transportation.

(c) The Committee Services Secretary will notify the applicant of what the cost will be to provide the requested street closures. Costs shall be determined based on the applicable fee schedule adopted by the city council.

(d) If parking needs for the event are expected to exceed the area(s) owned by or assigned to the location for the special event, appropriate parking arrangements must be made with affected properties or establishments and outlined on the site plan.

Sec. 12.17.006 Alcohol

(a) Events involving the sale or service of alcoholic beverages require proper permits from the Texas Alcoholic Beverage Commission (TABC). The applicant is responsible for obtaining all requisite TABC permits and providing proof of such permits to the city prior to the city issuing a special event permit.

(b) For events involving the sale or service of alcoholic beverages participants who may legally consume alcoholic beverages shall be permitted to have open containers of alcoholic beverages during the event hours within the area designated in the application provided. Provisions must be made and outlined in the permit application detailing the procedures and security that will be used to prevent participants from exiting the designated area with alcoholic beverages.

Sec. 12.17.007 Security

(a) Applicants for special events may be required to provide security, crowd control and traffic control for the duration of the special event. The type and level of such security will be determined by the Chief of Police in accordance with the

provisions outlined in subsection (b) below. The applicant will be responsible for the cost of the security. In the event the applicant desires to use private security officers, they shall be required to furnish written evidence that the security provided is from a state-certified security agency prior to issuance of a permit. Applicants may elect to use city police officers for such service upon concurrence of the Chief of Police and payment for such service prior to issuance of a permit.

(b) In determining the level of security required, the following non-exclusive items may be considered by the Chief of Police:

- (1) Whether alcoholic beverages will be sold, served, or otherwise made available at the event;
- (2) If special needs in security, crowd control, or traffic control are created by (i) the topography of the site or size of the event; (ii) the weather conditions during the event; or (iii) the time of day during which the event is conducted;
- (3) The event requires street closures or rerouting of vehicular or pedestrian traffic; or
- (4) The history of the particular event indicates that a greater or lesser level of security is required to protect the public health, safety, and welfare.
- (5) Other factors affecting the public health, safety and welfare the Chief of Police may feel relevant.

Sec. 12.17.008 Permit Application Review and Issuance

(a) At the meeting of the permit committee, the committee shall determine whether all requirements of this article have been met, whether insurance or a bond is required of the applicant and whether additional information is required of the applicant. Upon finding that all requirements of this article have been met, the permit committee shall issue the special event permit or issue the permit with conditions. If the permit committee finds that all requirements of this article are not met or should be denied based on the provisions of this article, the permit committee shall deny the application until proof of compliance with the terms of this article are provided to the permit committee.

(b) The permit committee shall grant the permit, grant the permit with conditions, or deny the permit within seven (7) business days after receipt of a completed application.

(c) If the permit committee grants the permit with conditions, denies, or revokes a permit, the permit committee shall deliver written notice to the permit holder or applicant stating the action and the reasons supporting such action. The notice shall be delivered using the contact information for the applicant as provided on the application.

Sec. 12.17.009 Denial or revocation

(a) The permit committee may deny or revoke an application for a special event permit if:

- (1) The proposed event will conflict with another special event that has been previously granted a permit for the same time, site or location;
- (2) The special event would severely hinder the delivery of normal or emergency services that cannot be remedied through reasonable accommodations as determined by the permit committee;
- (3) The time, place or manner of the proposed event will disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
- (4) The applicant has been cited for violating this article during a previous event or the applicant has failed to comply with the terms of a previous special event permit;
- (5) The applicant makes a false or misleading statement or omission of material fact on the application for a special event permit; or
- (6) The applicant does not comply with the issued permit by conducting the event in accordance with the event description and site plan provided in the application or the conditions stipulated by the permit committee when the permit is issued,

Sec. 12.17.010 Appeal

An applicant for a permit under this article or the permit holder may appeal to the city manager or his/her designee the decision of the permit committee to deny issuing a permit or placing conditions on the issuance of the permit. The appeal must be in writing and submitted to the city manager's office along with any supporting documentation within five (5) business days after the issuance of a decision by the permit committee. The city manager shall have the same powers and authority as the permit committee and shall review the appeal on the same standards as outlined in this article. The city manager may sustain the appeal and

reverse the permit committee's decision, deny the appeal and sustain the permit's committee's decision or add such conditions and additional requirements for granting a permit as the city manager thinks necessary and prudent. The decision of the city manager is final.

Sec. 12.17.011 Penalty; Enforcement; Right of Entry

(a) Any violation of this article by any person shall constitute a misdemeanor and shall be punishable by a fine in accordance with the general penalty provision found in Section 1.01.009 of this code. This penalty provision shall be in addition to any other legal or equitable remedies available to the city to enforce this article.

(b) A person to whom a permit has been issued who intentionally violates the terms of the permit shall be guilty of a misdemeanor and punishable in accordance with the penalty provisions of this section.

(c) A person participating in a special event for which a permit has been issued who intentionally violates the terms of the permit shall be guilty of a misdemeanor and punishable in accordance with the, penalty provisions of this section.

(d) The city through its officials, employees, agents, and representatives shall have the right at all reasonable times to enter upon the premises of the special event for the purpose of inspecting and ensuring compliance with the provisions of this article, 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 article, or other applicable city ordinance, rule or regulation.

SECTION 2. Penalty. Any person found in violation of any provision of this Ordinance shall be shall be guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the general penalty provision found in Section 1.01.009 of the Code of Ordinances of the City of Plainview, Texas.

SECTION 3. Effective Date. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. Repealed. All other terms and provisions of the Code of Ordinances of the City of Plainview, not in conflict herewith and not hereby amended shall remain in full force and effect.

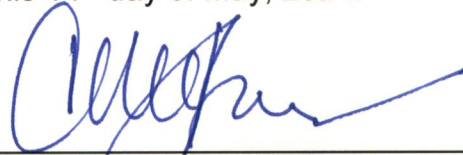
SECTION 5. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it

being the intent of the City Council of the City of Plainview, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 9. Publication. The City Secretary of the City of Plainview is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

Passed and approved on first reading this 23rd day of April, 2024.

Passed and approved on second reading this 14th day of May, 2024.



Charles Starnes, Mayor

ATTEST:



Belinda Hinojosa, City Secretary

APPROVED AS TO CONTENT:



Jeffrey Snyder, City Manager

APPROVED AS TO FORM:



Matthew Wade, City Attorney