

**ORDINANCE B-805-13**

**AN ORDINANCE AMENDING CHAPTER 70, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS (2005), BY ADDING A NEW ARTICLE V, "PUBLIC EVENTS," TO REQUIRE PERMITS FOR PUBLIC EVENTS; PROVIDING PROCEDURES FOR THE ISSUANCE OF A PERMIT; PROVIDING FOR WATER, HEALTH AND SANITATION FACILITIES FOR THE EVENT; PROVIDING FOR POLICE PROTECTION AND EMERGENCY MEDICAL SERVICES FOR THE EVENT; REQUIRING THE PROMOTER OF THE EVENT TO CARRY LIABILITY INSURANCE OF A CERTAIN AMOUNT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Burleson is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the Burleson City Council believes that events attended by a large number of persons, when not held at a structure or location designed for large crowds, may be detrimental to public health and safety; and

**WHEREAS**, the Burleson City Council finds such events can further be a detriment to the health, safety and general welfare of the City and its citizens when such events are not adequately planned and provisions are not made for adequate police protection, traffic control, parking, emergency medical services, and sanitation; and

**WHEREAS**, the Burleson City Council desires that a new Article V, "Public Events," be added to Chapter 70, "Streets, Sidewalks and Public Places," of the Code of Ordinances to regulate certain events.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS:**

**SECTION 1.**

Chapter 70, "Streets, Sidewalks and other Public Places," of the Code of Ordinances, City of Burleson, Texas (2005) is hereby amended by adding a new Article V, "Public Events," to read as follows:

**"ARTICLE V. - PUBLIC EVENTS**

**DIVISION 1. - Generally**

**Sect. 70-140 - Definitions.**

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

*Applicant* means a person who has filed a formal written application with the city for the purpose of obtaining a public event permit.

*City* means the City of Burleson, Texas.

*Code Official* means the person or department to whom the city manager may, from time to time, delegate the enforcement responsibility under this article.

*Permanent structure* means any man-made structure for which the city has issued a certificate of occupancy.

*Permit Holder* means the person to whom a public event permit is granted pursuant to this article.

*Promoter* means any individual, assumed-named entity, partnership, association, corporation, firm or organization that promotes, organizes, manages, finances or holds a public event.

*Right-of-Way* means any street, sidewalk, alley, or similar place which is owned or controlled by a governmental entity.

*Sidewalk* means any portion of a street between the curb or the lateral lines of the improved roadway and the adjacent property line, all or a part of which is intended for the use of pedestrians regardless of whether the area is paved or improved.

*Public Event* or *Event* means any meeting or gathering held at a specific location within the city limits, which attracts or can be expected to attract more than 500 persons at any instant during the meeting or gathering. The term does not include an event or gathering that occurs within or on the same property as an established permanent stadium, arena, auditorium 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.

*Street* means any public or private street, alley, avenue, lane, boulevard, drive, public place or highway commonly used for the purpose of travel within the city.

**Sect. 70-141 - Authority of code official.**

- (a) The provisions of this article shall be administered and enforced by the code official.
- (b) The code official has authority to issue a public event permit when requirements of this article have been met.

- (c) The code official shall ensure that all other applicable licenses and permits under local, state or federal law are requested, submitted and approved before the permit is granted.

**Sects. 70-142-70-145. - Reserved.**

**DIVISION 2. - PERMIT**

**Sect. 70-146 - Permit Required**

- (a) It shall be unlawful for any person to promote or conduct a special event without first having obtained a permit from the city code official by filing a written application.

**Sect. 70-147 - Application Procedure.**

- (a) An application for a public event permit must be filed not less than 45 days before the event is to begin. The code official may waive the 45-day filing requirement if it is determined that the application can be processed in less than 45 days, taking into consideration the number and types of permits required to be issued in order to hold the event.
- (b) The application for a public event permit shall contain, as a minimum, the following information:
  - (1) The name, address, e-mail address and telephone number of the applicant and the promoter or promoters of the event.
  - (2) If the promoter or promoters is a person other than the applicant, the applicant shall file a written statement from the promoter showing authority to make the application.
  - (3) If the event is to be held on private property, the applicant must submit written permission from the owner of the property or their authorized representative for the use of the property.
  - (4) The type and purpose of the event.
  - (5) The proposed location, if any, including the time, duration and location of any street closings and a site plan showing the area or route to be used during such event and the proposed parking area for the event. The applicant shall submit evidence with the application that sufficient parking will be provided for the event. Public Events also subject to Section 136-102 of Appendix B, Zoning, can only be located in the zoning districts set forth in that section.
  - (6) The estimated approximate number of persons who may attend the event.
  - (7) A site plan of the proposed location depicting the location and size of tents, awnings, canopies, food service booths, fences, barricades, restroom facilities and other temporary structures. In addition, the details of the sale of merchandise,

food or beverages and the list of vendors involved and the location of where those activities and vendors will be located or housed will be included on the site plan. The site plan shall include any other information required by this article.

- (8) Details of the proposed location, number and size of any signage for the event. All event signage shall comply with the currently adopted sign regulations.
  - (9) If loudspeakers are to be used, the location and orientation of those speakers shall be shown on the site plan.
  - (10) Whether electrical, mechanical or plumbing work will 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.
  - (11) The dates and times the event will start and end. Public Events also subject to Sections 136-101 and 136-102 of Appendix B, Zoning, must comply with the duration limitations in those sections.
  - (12) The time at which on-site activities in preparation for the event will begin.
  - (13) The location of any lighting for the event.
- (c) Upon receipt of a completed application, the code official shall forward a copy of the application to each of the appropriate departments of the city. Each department shall review the application for approval or denial as it pertains to that particular department and return it, with any comments, to the code official within five working days of receipt.
  - (d) If the applicant intends to or is required to use city services, the department providing such services shall submit to the applicant an estimate of the cost of each service.
  - (e) Where the fire chief, police chief or fire marshal determines that a proposed public event has an adverse impact on public safety through diminished access to buildings, structures, fire hydrants and fire apparatus, access roads or where such event will adversely affect public safety services of any kind, the fire chief or fire marshal shall have the authority to order the development of, or prescribe a public safety plan for the provision of an appropriate level of public safety. The public safety plan shall address: (1) emergency vehicle ingress and egress; (2) fire protection; (3) emergency medical services; (4) location of public assembly areas; (5) the directing of both attendees and vehicles (including the parking of vehicles); (6) vendor and food concession distribution; (7) the need for the presence of law enforcement at the event; and (8) the need for the presence of fire and emergency medical services personnel at the event.
  - (f) After reviewing the application and departmental comments, the code official shall issue the public event permit or issue the permit with conditions, unless denied in accordance with section 70-148.

**Sect. 70-148 - Denial or Revocation.**

- (a) The code official may deny or revoke an application for a public event permit if:
  - (1) A public event permit has been previously granted for, and will conflict with, another event at the same time, site or location;
  - (2) The public event would severely hinder the delivery of normal or emergency services;
  - (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 fails to comply with, or the proposed event will violate this article or any other city ordinance, or if 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 public event permit;
  - (5) The applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the event; or
  - (6) The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a public event permit.
- (b) The code official shall grant, grant the permit with conditions, or deny the permit within ten days after receipt of a completed application.
- (c) If the code official grants the permit with conditions, denies, or revokes a permit, the code official shall immediately deliver written notice to the permit holder or applicant stating the action and the reasons supporting such action. The written notice shall be hand-delivered or mailed by certified mail to the permit holder or applicant's address as shown on the application.
- (d) Any person aggrieved by the action of the code official shall have the right to appeal to the city council by filing a notice of appeal with the city secretary within five business days after the notice of decision is delivered under subsection (c). Upon receipt of the notice of appeal, the city secretary shall set a time and place for a hearing on the appeal and provide notice of the hearing to the aggrieved person. The hearing shall be not later than fourteen days from the date of receipt of the notice of appeal.
- (e) The decision of the city council on the appeal is final. No other administrative procedures are provided by the City.

**Sects. 70-149-70-155. - Reserved.**

**DIVISION 3. STANDARDS**

**Sect. 70-156 - Parking.**

- (a) The applicant shall submit evidence on a site plan that the number of spaces or area to be used will be sufficient to accommodate the projected number of users of such parking. If said parking is to be on private property adjacent to the event, evidence that the applicant has ownership of the property or permission from the property owner must be provided.
- (b) When the location is not an established parking area, a plan shall be submitted which will show how the parking will be achieved and arranged. The number of parking spaces and layout of the parking area, including aisle widths and size of parking spaces, shall be included on the site plan.
- (c) When adequate parking is not available at or immediately adjacent to the site of the event, off premises parking may be used. Plans shall be submitted which will show how off-premises parking and transfer of attendees to the event location will be accomplished.
- (d) The police chief or fire marshal may prohibit or restrict, for temporary periods, the parking of vehicles along a street within and adjacent to the site of the event.

**Sect. 70-157 - Street Closures.**

The applicant shall provide a site plan that indicates proposed streets to be closed. The director of public works or their designee will review all proposed street closures to ensure that proper traffic control measures will be in place. The director of public works or their designee will notify the applicant of what the cost will be to provide the requested street closures. Costs shall be determined based on rates established by the Department of Public Works. Street closures will only be provided by the city. All street closings require police, public works, fire marshal and fire department approval.

**Sect. 70-158 - Amusement Rides.**

Amusement rides and attractions associated with Public Events shall conform to the statutory rules and regulations set forth in Chapter 2151 of the Texas Occupations Code, regulation of amusement rides, also referred to as the Amusement Ride Safety Inspection and Insurance Act.

**Sect. 70-159 - Hours of Operations.**

- (a) Public Events shall be conducted only between the hours of 5:00 a.m. to 11:00 p.m. daily. The police chief or code official shall be responsible for enforcing this provision.
- (b) An applicant, promoter or the permit holder may have the hours of operating extended to no later than 2:00 a.m. for a public event on a showing of good cause. In deciding whether there is good cause, the police chief and code official shall consider the following factors: (1) the proposed location of the event; (2) the proximity of the proposed location to residential areas; (3) the other uses surrounding the location of the event; and (4) the level of noise that may be generated after 11:00 p.m. at the event.

- (c) Public Events also subject to Section 136-102 of Appendix B, Zoning, shall only be subject to the hour restrictions in that section and are not eligible for a late hour extension under subsection (b) of this section.

**Sect. 70-160 - Tents and Temporary Structures.**

The use of a tent, canopy, or air-supported temporary membrane structure will require a permit and is subject to review by the fire marshal and shall meet the requirements of the fire code as adopted. Where applicable, copies of fire retardant certificates shall be required.

**Sect. 70-161 - Cleanup; Compliance; Costs.**

The permit holder shall agree to a complete and satisfactory cleanup of all trash and debris on the site. At the conclusion of the event, a city representative will inspect the area to ensure that compliance has been met. If it is necessary for the city to accomplish the cleanup, the applicant will be billed to cover the city's reasonable and necessary expenses to provide the cleanup.

**Sect. 70-162 - Food Service.**

Where food service is provided, those operations shall be in compliance with all provisions of the city food and food service establishment ordinance, fire code, as well as all other applicable state and local laws. A temporary food service permit application and a permit fee must be submitted by each food vendor participating in the event in accordance with Article V, "Food and Food Establishments," of Chapter 14 of this code.

**Sect. 70-163 - Sanitary Facilities.**

Where necessary, portable type sanitary facilities must be provided on the premises in an amount sufficient to satisfy state regulations concerning Public Events adopted under Chapter 751 of the Texas Health and Safety Code.

**Sect. 70-164 - Water Usage and Disposal of Wastewater.**

- (a) Any public event or temporary activity requiring the use of water from the city water system must be coordinated with the water department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with all applicable ordinances of the city.
- (b) The applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the code official prior to such event.

**Sect. 70-165 - Solid Waste.**

Where applicable, a commercial solid waste dumpster must be provided on-premises at all outdoor Public Events. Applicants should make arrangements for the provisions of such dumpsters with a commercial solid waste collection provider company licensed by the city.

**Sect. 70-166 - Police Protection.**

- (a) The police chief or their designee shall determine whether and to what extent additional police protection is reasonably necessary for traffic control and public safety. The police chief or their designee shall base this decision solely on the size, location, duration, time and date of the event; the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks.
- (b) If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection is deemed necessary by the police chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the police protection deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the police chief or their designee shall agree upon who will provide police presence, if the Burluson Police Department will be providing the police presence, and the cost of policing the event.

**Sect. 70-167 - Emergency Medical Care.**

- (a) The fire chief or their designee shall determine whether and to what extent emergency medical care shall be reasonably provided to ensure public safety. The fire chief or their designee shall base this decision on the size, location, duration, time and date of the event.
- (b) If possible, without disruption of ordinary fire services or compromise of public safety, regularly scheduled on-duty personnel will provide emergency medical care for the event. If additional emergency medical care is deemed necessary by the fire chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the emergency medical care provider as deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the fire chief or their designee shall agree upon who will provide emergency medical care, if the Burluson Fire Department will be providing the emergency medical care, and the cost of providing such care.

**Sect. 70-168 - Insurance Coverage.**

The application shall provide, with each public event permit application, a liability, fire and comprehensive insurance policy reflecting the city as an additional insured party. Coverage shall be at least in the amount of \$250,000.00 for each person and \$500,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence for injury to or destruction of property.

**Sect. 70-169 - Nuisances to be controlled by city, state and federal regulations.**

Noise, glare, odor and other nuisances shall be controlled as set out in applicable sections of the "Code of Ordinances" as adopted by the City of Burluson and shall not be in violation of any other local, state or federal law.

**Sects. 70-170-70-190. - Reserved."**

**SECTION 2.  
CUMULATIVE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas (2005), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed. This ordinance is consistent with and is not intended to repeal any provision in the zoning ordinance.

**SECTION 3.  
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.  
PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 5.  
SAVINGS PROVISION**

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of any ordinances concerning outdoor gatherings or Public Events 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.

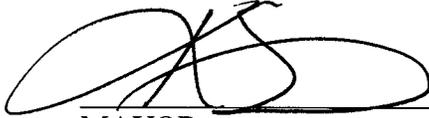
**SECTION 6.  
PUBLICATION**

The City Secretary of the City of Burleson is hereby directed to publish in the official newspaper of the City of Burleson, the caption, penalty clause, publication clause and effective date clause of this ordinance at least two (2) times within fourteen (14) days after the passage of this ordinance as required by Section 36 of the Charter of the City of Burleson.

**SECTION 7.  
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 1 DAY OF July, 2013.

  
MAYOR

ATTEST:

  
CITY SECRETARY  
Deputy

EFFECTIVE: July 15, 2013

APPROVED AS TO FORM AND LEGALITY:

  
CITY ATTORNEY



FIRST READING: June 3, 2013

SECOND READING: July 1, 2013