

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2016-38

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES CODE BY AMENDING: (I) CHAPTER 38 "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE I "IN GENERAL," SECTION 38.7 "BEGGING AND SOLICITING ALMS"; AND (II) ARTICLES VI AND VII OF CHAPTER 62 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," TO CLARIFY AND IMPROVE THE CITY'S EXISTING SCHEME FOR THE REGULATION AND PERMITTING OF SPECIAL EVENTS, PARADES, AND PUBLIC ASSEMBLIES HELD IN PUBLIC PLACES IN THE CITY OF CORAL GABLES; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

RECITALS AND LEGISLATIVE FINDINGS

WHEREAS, the City Commission finds that it is necessary and expedient to amend the city code in order to clarify and improve the city's existing scheme for the regulation and permitting of special events, parades and public assemblies held in public places in the City of Coral Gables; and

WHEREAS, the City Commission finds that it has important and compelling interests in protecting the health, safety, and welfare of the general public and participants in special events, parades, and public assemblies held in the city; in protecting municipal and private property located in the city; in minimizing the obstruction of vehicular and pedestrian traffic in the city; in minimizing the disruption of city services and business activities in the city; and in protecting residents' right to the quiet and peaceful enjoyment of their homes and neighborhoods in the city; and

WHEREAS, the City Commission finds that the restrictions presented in this Ordinance are content and viewpoint neutral and directs that the provisions of this Ordinance must always be applied to be consistent with the requirements of the First Amendment to the U.S. Constitution and all other applicable laws; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on June 14, 2016, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with a text amendment to the city code, and, after due consideration and discussion, approved the amendment on First Reading (vote: 5-0).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Code of the City of Coral Gables is hereby amended as follows:

CHAPTER 38 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. – IN GENERAL

* * * *

Sec. 38.7. – Begging and soliciting alms, and obstruction of vehicular and pedestrian traffic.

* * * *

(a) *Definitions. . . .*

Obstruct pedestrian or vehicular traffic means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take unreasonable evasive action to avoid physical contact.

* * * *

(b) *Prohibited acts.*

- (1) A person is guilty of pedestrian interference if, in a public place, he intentionally:
 - a. Obstructs pedestrian or vehicular traffic; or
 - b. Aggressively begs.

* * * *

(c) *Permitted activities.* Acts specifically authorized by a permit duly issued by a lawful authority shall not constitute obstruction of pedestrian or vehicular traffic.

* * * *

CHAPTER 62 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

* * * *

ARTICLE VI. – PUBLIC ASSEMBLIES AND PICKETING

Sec. 62-182. – Definitions.

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

Director of public safety means the Assistant City Manager/Director of Public Safety appointed by the City Manager to provide executive level leadership for public safety matters in the City of Coral Gables or his/her designee.

Chief of police means the chief of police of the City of Coral Gables or his/her designee.

Fire chief means the chief of fire rescue of the City of Coral Gables or his/her designee.

Public assembly means any meeting, demonstration, picket line, rally, or gathering of (a) thirty (30) or more persons, for any common purpose, as a result of prior planning, which occupies any public place open to the general public, or (b) any person or group, for any common purpose, as a result of prior planning, which occupies any public place open to the general public and is reasonably anticipated to interfere with the normal flow or regulation of pedestrian or vehicular traffic.

Public place or public places, for the purpose of this article, means streets, sidewalks, parkways, highways, boulevards, avenues, alleys, plazas, medians, entrances and any and all spaces dedicated to the public use or used in any way by the city for the benefit of the public, including but not limited to, buildings, parks and all public areas.

Sidewalk is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

Street is any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof not including sidewalks.

(Code 1958, § 24A-1; Code 1991, § 22-186; Ord. No. O-2004-33, § 2, 8-24-2004; Ord. No. 2006-37, § 2, 12-12-2006)

Sec. 62-183. – No permit required; notification; restrictions.

- (1) No permit shall be required to hold or engage in a public assembly, as defined herein, provided the public assembly does not also qualify as a special event or parade under article VII of this chapter.
- (2) At least 24-hours prior to the commencement of any public assembly, any individual or organization seeking to hold a public assembly shall notify the city manager's office in writing of the date, time, location, duration, and expected size of the event, so that arrangements can be made to provide police, fire, and other city services at the

event, as necessary. No individual or organization shall hold a public assembly in the City of Coral Gables without first providing the city manager's office with proper notice of the public assembly.

- (3) Upon being provided notice of a planned public assembly, the city manager shall notify the following officials of the date, time, location, duration, and expected size of the public assembly:
- a. City Attorney;
 - b. Director of Public Safety;
 - c. Chief of Police;
 - d. Fire Chief;
 - e. Director of Parks and Recreation;
 - f. Director of the Public Works Department;
 - g. Director of Code Enforcement; and
 - h. Responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route or location of the proposed public assembly.

Sec. 62-184. – Carrying of signs and weapons.

The following prohibitions shall apply to all public assemblies:

It shall be unlawful for any person to carry or possess any dirk, knife (except a common pocketknife, plastic knife, or blunt-bladed table knife), metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or dart-firing stun gun, each as defined in Section 790.001 of the Florida Statutes, unless expressly authorized pursuant to Chapter 790 of the Florida Statutes or other applicable local, state, or federal law.

As used in this section, "tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." "Self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

- (1) It shall be unlawful for any person to carry or possess any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.

- (2) Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

(Code 1958, § 24A-3; Code 1991, § 22-188; Ord. No. O-2004-33, § 2, 8-24-2004; Ord. No. 2006-37, § 2, 12-12-2006; Memo. of 2-8-2013)

State Law reference – Field of regulation of firearms and ammunition preempted, F.S. § 790.33.

Sec. 62-185. – Dispersal of non-complying public assemblies; penalties.

- (1) The chief of police, or his or her designee, and the director of code enforcement, or his or her designee, is empowered to enforce the requirements of this article.
- (2) Any public assembly violating the provisions of any section of this article shall be ordered to immediately disperse. Any person violating the provisions of any section of this article shall, upon conviction, be punished by fine not to exceed \$500.00 or imprisonment of not more than 60 days, or both.
- (3) No person shall be arrested or imprisoned for failing to provide the city with sufficient advance notice of a public assembly, as required by section 62-183 of this article.

(Ord. No. 2006-37, § 2, 12-12-2006)

Secs. 62-186. – Prohibition against public assemblies in residential districts at night.

No public assembly may be held in the SFR, MF1, MF2 or MFSA zoning districts between the hours of 11:00 p.m. and 7:30 a.m. the following day on Sunday, Monday, Tuesday, Wednesday or Thursday, or between the hours of midnight and 9:00 a.m. the following day on Friday or Saturday.

Sec. 62-187. – Prohibition against picketing before or about a dwelling unit.

(a) *Definitions.*

- (1) “Picket”; “picketing”; and “protest.” The terms “picket,” “picketing,” and “protest” shall all mean, for purposes of this section, any assembly of one or more persons, who, through conduct, speech, or other form of expression criticize, protest, or complain about any matter in which a particular person, group of persons, or type of person is specifically targeted for protest, complaint, or criticism, and where such assembly stands, loiters, congregates, or mills before or about a dwelling unit in

which a person who is a target or subject of such protest resides or is perceived to reside.

One or more persons may be considered picketing or protesting within the meaning of this section even if the message being communicated is intended to be heard or seen by persons in addition to the resident or residents inside a dwelling unit.

(2) The term “dwelling unit” shall mean a building or portion thereof that is designed for residential occupancy, and shall include single-family homes, zero lot line residences, townhomes or connected homes, duplexes, and other single- and multi-family dwelling units located in the SFR, MF1, MF2, and MFSA zoning districts. Where a single-family residence is grandfathered-in in another zoning district and is still used for single-family residential purposes, it shall be included in this definition. Excluded from this definition are apartment buildings and condominiums located in a zoning district other than the SFR, MF1, MF2, and MFSA districts.

(3) The term “buffer area” shall mean that area of public property, including any park, public street, public right-of-way, or sidewalk, located within an area that extends 50 linear feet in any direction measured from the property line of a dwelling unit. Privately owned property shall not be considered to be included in the buffer area, although the laws of trespass shall apply.

- (b) *Prohibition against protest and picketing before or about a dwelling unit.* It shall be unlawful for any person or persons to picket, protest, or conduct any picketing or protesting activity, within a buffer area of 50 linear feet in any direction from the property line of any dwelling unit in the City of Coral Gables.
- (c) *Enforcement and penalty for violation.* A person violating the provisions of this section shall be guilty of an offense punishable as provided in Section 1.7 of the City Code.
- (d) *Supplement to other provisions of law.* The provisions of this section supplement other provisions of law that protect the public order and safety, including, but not limited to, the following: provisions of the City Code and other law governing noise limitations; provisions of the City Code and other law prohibiting obstruction or interference with passage on a public right-of-way, sidewalk, or street; and provisions of the City Code and other law that prohibit trespass, assault, battery, destruction of property or other injury to person or property.
- (e) *Alternative means.* The city manager or designee shall, on application, make reasonable efforts to make available city-owned land reasonably near or abutting a residential zoning district for any protest or picket, for a reasonable period of time during daylight hours, subject to all laws applying to the conduct of persons engaged in the protest or picket. Furthermore, nothing in this section shall be read to prohibit a protest or picketing in a zoning district that is not listed in Section 62-202(a)(2) above, so long as the conduct of such protest or picket is otherwise lawful.

Secs. 62-188—62-220. – Reserved.

ARTICLE VII. – SPECIAL EVENTS AND PARADES

Sec. 62-221. – Definitions.

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

Director of public safety means the Assistant City Manager/Director of Public Safety appointed by the City Manager to provide executive level leadership for public safety matters in the City of Coral Gables, or his/her designee.

Chief of police means the chief of police of the City of Coral Gables or his/her designee.

Fire chief means the chief of fire rescue of the City of Coral Gables or his/her designee.

Events committee means the committee designated under this article to receive, process, review and approve or deny applications to hold special events and parades in accordance with the provisions of this article.

Fireworks means any composition or device for the purpose of producing a visible or an audible effect for indoor or outdoor entertainment purposes by combustion, deflagration, or detonation that meets the definition of “Consumer Fireworks or Display Fireworks” as set forth in the Florida Fire Prevention Code.

Nonprofit means any bona fide charitable, benevolent, eleemosynary, education, cultural, or governmental institution or organization, or any event held for nonprofit purposes regardless of whether the sponsor is a for-profit or nonprofit organization.

Obstruct or obstruction means: (a) to walk, stand, sit, lie, or place an object in such a manner as to block passage by a person or a vehicle or to require a person or a driver of a vehicle to take unreasonable evasive action to avoid physical contact, or (b) to make use of a city street, sidewalk, or other public place, so as to prevent the use of such city street, sidewalk, or other public place by persons not participating in the parade or special event.

Parade means any organized moving march, ceremony, show, exhibition, pageant, demonstration, motorcade or procession of any kind, whether for profit or not for profit, consisting of persons, animals, or vehicles, or a combination thereof, that requires the closure, exclusive use, or obstruction of one or more city streets.

Permit means a special event or parade permit as required by this article.

Public place or public places, for the purpose of this article, means streets, sidewalks, parkways, highways, boulevards, avenues, alleys, plazas, medians, entrances and any and all spaces dedicated to the public use or used in any way by the city for the benefit of the public, including but not limited to, buildings, parks and all public areas.

Sidewalk is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

Special event means an organized activity, event, celebration, or other gathering, whether for profit or not for profit, which:

- (1) involves the temporary use of any city street, sidewalk, or other public place open to the general public;
- (2) requires the provision and coordination of municipal services to a degree significantly over and above that which the city routinely provides under ordinary everyday circumstances; and
- (3) either (a) seeks the exclusive use or closure of a city street, sidewalk, or other public place; or (b) involves the erection of stages, utility poles, booths, tents, stands, or other temporary structures in a public place; or (c) substantially and necessarily affects or interferes with the use of a city street, sidewalk, or other public place by persons not participating in the special event.

Specified area means the public place or places wherein the special event or parade is held. In addition, *specified area* shall include any parade route, two blocks on either side of any parade route, a four-block radius from any park, plaza or square, and any area mutually agreed upon by the permit applicant and the events committee during a pre-permit coordination meeting.

Street is any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof not including sidewalks.

(Code 1991, § 22-220; Ord. No. 3593, § 1(22-220), 9-24-2002)

Sec. 62-222. – Exceptions.

This article shall not apply to the following:

- (1) A governmental agency, including the City of Coral Gables, acting within the scope of its functions or conducting an event that would otherwise qualify as a special event or parade;
- (2) Funeral processions; or
- (3) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.

Sec. 62-223. – Permit required.

Except as provided in section 62-222 of this article, no person shall hold or engage in any special event or parade, as defined herein, unless a permit is first issued by the events committee or by the city commission.

Sec. 62-224 – Special events and parades committee.

- (1) *Authorization of committee.* A special events and parades staff committee (the “events committee”) shall perform the functions identified in this article.
- (2) *Committee composition.* The events committee shall be composed of the following: the Director of Public Safety, the Chief of Police, the Fire Chief, the Director of Parks and Recreation, the Director of Code Enforcement, and any other designees of the City Manager.
- (3) *Approval or denial of permit applications.* The events committee shall be charged with the duties of reviewing and deciding whether an application for a permit to hold a special event or parade should be approved or denied under the criteria set forth in this article.
- (4) *Applicant’s appearance before events committee.* An applicant for a permit to hold a special event or parade shall be required to appear before the events committee at a pre-permit coordination meeting. Upon receipt of a permit application, the events committee shall select a date and time for the meeting to occur and provide reasonable notice to the applicant of such meeting.

Sec. 62-225. – Application, contents.

The provisions contained herein are for review and approvals required for purposes of conducting a special event or parade, as provided herein.

- (1) *Permit application.* A person seeking a special event or parade permit shall file an application with the events committee, with copies to the chief of police and fire chief, on forms provided by the city, and the application shall be signed by the applicant under oath.
- (2) *Contents of application.* The application for a special event or parade permit shall set forth the following information:
 - a. The name and address of the individual, organization, or group organizing the special event or parade.
 - b. The name, address and telephone number of the person who will act as chairperson of the special event or parade and be responsible for the conduct thereof.

- c. The name, address, and telephone number of the headquarters of the organization or group for which the special event or parade is to be conducted, if any, and the authorized and responsible heads of the organization.
- d. If the special event or parade is designed to be held by or on behalf of any person or entity other than the applicant, the applicant for such permit shall file a letter from that person or entity with the events committee authorizing the applicant to apply for the permit on his, her, or its behalf.
- e. The type of special event or parade, including a description of activities planned during the event.
- f. The purpose of the special event or parade and the number and types of vehicles and animals (if any) to participate.
- g. The approximate number of participants (spectators are by definition not participants).
- h. The approximate number of spectators.
- i. A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the special event or parade, including: (1) whether any music will be provided, either live or recorded, and (2) the number, types and locations of all loudspeakers and amplifying devices to be used.
- j. The number of monitors to be provided and the identifying marks, badges or symbols to be worn or used by the monitors.
- k. The method of notifying participants of the terms and conditions of the special event or parade.
- l. The date the event is to be conducted and the hours it will commence and terminate.
- m. The route to be traveled, if any, including the starting point and the termination point.
- n. A statement as to whether the special event or parade will occupy all or only a portion of the width of the streets or sidewalks proposed to be traversed or public place proposed to be used.
- o. The specific assembly and dispersal locations, the specific route and the plans, if any, for disassembly and dispersal.
- p. The time and location at which units of the special event or parade will begin to assemble.
- q. A site plan and/or a traffic plan, if required by the events committee.
- r. Assurance that the applicant will make provision for adequate police presence and that the applicant will conform to necessary fire prevention rules, regulations and guidelines, including those set forth in section 62-231 of this article.
- s. Assurance that the applicant will make provision for garbage and litter cleanup associated with the special event or parade during and after the special event or parade in the specified area.
- t. Assurance that the applicant will not begin to set-up any stages, tents, utility poles, booths, stands, signs or any other movable fixtures more than 24 hours prior to the time at which the special event or parade is scheduled to commence.

- u. Assurance that the applicant will cause all stages, tents, utility poles, booths, stands, signs, and all other movable fixtures pertaining to the special event or parade to be removed immediately after the special event or parade.
- v. Such other information as the events committee may deem necessary in order to make arrangements to protect the health, safety and welfare of general public and participants in special event or parade, to protect municipal and private property located in the city, to minimize the obstruction of vehicular and pedestrian traffic in the city, to minimize the disruption of city services and business activities in the city, and to protect residents' right to the quiet and peaceful enjoyment of their homes and neighborhood.

(3) *False Claims and Presentations.* An applicant submitting an application for permit shall be subject to the requirements of Chapter 39 (False Claims and Presentations Ordinance) of the City Code.

(Code 1991, § 22-221; Ord. No. 3593, § 1(22-221), 9-24-2002)

Sec. 62-226. – Time limitation for application.

- (1) *Timing of application for single special event or parade.* For single special events or nonrecurring parades, an application for a permit shall be filed with the events committee, with copies to the chief of police and fire chief, at least 30 and not more than 180 days before the special event or parade is proposed to commence. The events committee may waive the minimum 30-day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the special event or parade, the anticipated number of participants, and the city services required in connection with the event, the events committee determines that the waiver will not present a hazard to public safety. Where the events committee authorizes a single special event or nonrecurring parade to be held less than 30 days following the submission of the permit application, the applicant shall be required to pay two times the standard application fee and all actual costs incurred by the city in expediting said request, including overtime costs. Said costs are in addition to any and all other costs and charges contained in this article.
- (2) *Timing of application for reoccurring special events or parades.* For special events or parades held on a regular or recurring basis at the same location, an application for a permit covering all such special events or parades during that calendar year may be filed with the events committee, with copies to the chief of police and fire chief, at least 60 and not more than 180 days before the date and time at which the first such special event or parade is proposed to commence. The events committee may waive the minimum 60-day period after due consideration of the factors specified in subsection (1) of this section. Where the events committee authorizes a reoccurring

special event or parade to be held less than 60 days following the submission of the permit application, the applicant shall be required to pay two times the standard application fee and all actual costs incurred by the city in expediting said request, including overtime costs. Said costs are in addition to any and all other costs and charges contained in this article.

(Code 1991, § 22-222; Ord. No. 3593, § 1(22-222), 9-24-2002)

Sec. 62-227. – Standards and criteria for approval of application.

The events committee shall approve a permit application as provided for herein when, based on consideration of the application and on such other information as may otherwise be obtained, it is determined that:

- (1) The conduct of the special event or parade will not obstruct the safe and orderly movement of pedestrian or vehicular traffic contiguous to its route or location.
- (2) The conduct of the special event or parade will not unduly disrupt or interfere with city services, business activities or residents' right to the quiet and peaceful enjoyment of their homes and neighborhoods.
- (3) The special event or parade is scheduled to move (if applicable) from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- (4) The applicant has secured the necessary police and fire protection services.
- (5) The conduct of the special event or parade will not require the diversion of so great a number of city police officers to properly police the location of the event, the line of movement, and the areas contiguous thereto as to prevent the normal police protection of the city.
- (6) No special event or parade is scheduled elsewhere in the city where the police, fire, or other city resources required for that special event or parade are so great that the deployment of police, fire, or other city services for the proposed special event or parade would have an immediate and adverse effect upon the welfare and safety of persons and property.
- (7) The concentration of persons, animals, and vehicles at the specified area of the special event or parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the specified area or elsewhere in the city.
- (8) The special event or parade does not present an unreasonable danger to the health and safety of the applicant, participants, spectators, city employees or agents or the general public or to municipal or private property.

- (9) Adequate sanitation and other required health facilities are or will be made available in or adjacent to the specified area.
- (10) There are sufficient parking places near the specified area of the special event or parade to accommodate the number of vehicles reasonably expected.
- (11) The special event or parade is not for the primary purpose of advertising any product, goods or event that is primarily for private profit, and the special event or parade itself is not primarily for profit. The prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits and/or structures used in the special event or parade.
- (12) No permit application to hold a conflicting special event or parade at the same time and location has already been granted or has been received previously and will be granted.
- (13) The special event or parade will not conflict with previously planned programs or events organized by the city that were previously scheduled to occur at or in close proximity to the proposed location for the special event or parade.
- (14) The application for permit does not contain any material falsehood or misrepresentation and the applicant has not failed to comply with the requirements of Chapter 39 (False Claims and Presentations Ordinance) of the City Code.
- (15) The applicant, or person on whose behalf the application for permit was made, has not previously made any material misrepresentation regarding the nature or scope of an event or activity previously permitted or otherwise previously materially violated the provisions of this article.
- (16) The applicant, or person on whose behalf the application for permit was made, has never damaged or failed to pay for damage to city property.
- (17) The application for permit is fully complete and executed.
- (18) The applicant, or person on whose behalf the application for permit was made, is legally competent to contract and to sue and be sued.
- (19) The special event or parade is not prohibited by or incompatible with the traditionally accepted uses of the public place where the applicant proposes to hold the special event or parade.
- (20) The special event or parade does not create a conflict with regard to any federal, state or local law.
- (21) The special event or parade is not otherwise contrary to or inconsistent with the

best interests of the city.

Sec. 62-228. – Indemnification of city; liability insurance.

- (1) *Indemnification.* All applicants for a permit to hold a special event or parade shall agree to indemnify and hold harmless the city, its servants, agents and employees, for any and all claims caused by or arising out of the activities permitted and any work associated therewith. Indemnification provisions shall be approved by the city attorney and set forth in each permit application. The risk management division shall be responsible for monitoring an applicant's compliance with the indemnification requirements and may, in its discretion, waive or reduce such requirements based upon its experience with previous events, size, duration, location, and nature of the event.
- (2) *Liability insurance.* Insurance coverage requirements approved by the city commission shall be set forth in each permit application to protect the city from liability that may result from the special event or parade and any work associated therewith. All applicants shall provide to the risk management division proof of an appropriate policy of insurance issued by an insurance company with an A.M. Best rating of at least (A-/VI) or the equivalent thereof, which policy shall name the city as an additional insured on a primary and non-contributory basis and contain a waiver of subrogation endorsement in favor of the city. The risk management division shall be responsible for monitoring an applicant's compliance with the insurance requirements and may, in its discretion, waive or reduce such requirements based upon its experience with previous events, size, duration, location, and nature of the event.

(Code 1991, § 22-226; Ord. No. 3593, § 1(22-226), 9-24-2002)

Sec. 62-229. – Schedule of fees, performance bonds, and exemptions.

- (a) *Schedule of fees, performance bonds, and exemptions.* A schedule of fees, performance bonds and exemptions for special events and parades shall be as established by the city commission.
- (b) *Application fee.* At the time of application, an applicant shall deposit a non-refundable application fee based on the schedule approved by the city commission to cover the administrative costs of processing the permit application.
- (c) *Fee for city services.* If any city services shall be required for the special event or parade, the applicant shall pay, prior to the issuance of a permit, the charges for those services in accordance with a schedule of service costs approved by the city commission. Such charges may include charges for police and fire protection services, code enforcement services, electrical services, exclusive use of city-owned parking spaces, barricades, labor, materials, and any other charges for city services incidental to the special event or parade. In addition, a closing fee shall be imposed following the conclusion of the special event or parade for any additional required city services not paid for by the applicant

prior to the issuance of the permit.

- (d) *Costs of site plan and traffic plan.* The events committee may require the applicant to provide a site plan and/or a traffic plan in connection with the proposed special event or parade. If the events committee determines that a site plan and/or a traffic plan is required, the applicant will be responsible for the cost of providing any required plan.
- (e) *Performance bond.* All persons seeking a permit to hold a special event or parade shall be required to post a performance bond securing their obligations to comply with the requirements of this article, including, but not limited to, their obligation to clean-up after the special event or parade. For events ending by 6:00 p.m., all cleaning activities shall be completed within six hours after the end of the event; and for events ending after 6:00 p.m., all clean-up activities shall be completed by 8:00 a.m. the following morning. Requests for additional time by which to complete clean-up activities shall be directed to the events committee and shall be reviewed on a case-by-case basis. An applicant's failure to adequately clean-up after a special event or parade or to otherwise comply with the provisions of this article, as determined by the events committee or its designee, shall result in the forfeiture of the performance bond and may result in the imposition of additional fees and charges on the applicant for costs incurred by the city. A schedule of performance bonds for special events and parades shall be as established by the city commission.
- (f) *Waiver of fees and performance bond.* The city manager or his or her designee may waive or reduce one or more of the enumerated fees or the performance bond based upon experience with previous events, size, duration, location, nature of the event and the likelihood of unremoved litter or damage to property.

(Code 1991, § 22-227; Ord. No. 3593, § 1(22-227), 9-24-2002)

Sec. 62-230. – Police services.

- (1) *Review of applications; police services.* The chief of police or his or her designee shall review each permit application and determine whether and to what extent police protection is reasonably necessary for the special event or parade for traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. The chief of police shall, pursuant to the city police standard operating policies, determine the number of off-duty officers or overtime officers, or a combination thereof, needed to provide special police services in connection with the special event or parade. The applicant shall be responsible for the cost of any such off-duty or overtime officers deemed necessary by the chief of police. If possible without the disruption of ordinary police services or the compromise of public safety, the chief of police may provide regularly scheduled on-duty police personnel to provide police services at the special event or parade.

- (2) *Revocation of permit.* The chief of police or his or her designee shall have the authority to revoke a special event or parade permit instantly upon violation of the conditions or standards for issuance set forth in this article or when a public emergency arises provided the police, fire or other city resources required for that emergency are so great that deployment of police, fire or other services for the special event or parade would have an immediate and adverse effect upon the welfare and safety of persons or property.

Sec. 62-231. – Fire and life safety protection.

- (1) *Review of applications; fire protection services.* The fire chief or his or her designee shall review each permit application and determine whether and to what extent additional fire and life safety protection is reasonably necessary for any special event or parade presenting a fire-safety concern or incorporating a fireworks display. The fire chief shall base this decision on the requirements of the Florida Fire Prevention Code, crowd size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, and the number of streets and intersections blocked. If additional fire and life safety protection services are deemed necessary by the fire chief, the applicant shall have the duty to secure the fire and life safety protection services deemed necessary by the fire chief at the sole expense of the applicant.
- (2) *Professional licenses, insurance, and notice to property owners for fireworks displays.* For any fireworks or pyrotechnic displays, the applicant shall provide: (a) copies of all professional fireworks licenses and appropriate insurance to the events committee or its designee no less than four weeks prior to the date of the requested display, and (b) notice of the display to all property owners within 1,000 feet of the location of the display no less than 15 days prior to the date of the requested display.

Sec. 62-232. – Nondiscrimination.

The events committee, all other city officials, and the city commission, as necessary, shall uniformly consider each application upon its merits and shall not discriminate in exercising authority under this article based upon political, religious, ethnic, race, disability, sexual orientation, or gender related grounds, or upon the content of the participants' speech.

Sec. 62-233. – Notice of denial of application.

The events committee shall act promptly upon a timely filed application for a special event or parade permit, but in no event shall the events committee grant or deny a permit less than 48 hours prior to the proposed special event or parade. Where a permit application is disapproved, the events committee shall notify the applicant by personal delivery or certified mail at least 48 hours prior to the proposed special event or parade and state the reasons for denial.

Sec. 62-234. – Alternative permit.

The events committee, in denying an application for a special event or parade permit,

may authorize the conduct of the special event or parade at a date, time, location, or route different from that requested by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the events committee, file a written notice of acceptance with the events committee, with copies to the chief of police and fire chief. An alternate special event or parade permit shall conform to the requirements of, and shall have the effect of, a special event or parade permit issued under this article.

Sec. 62-235. – Appeals.

- (1) *Appeal to City Manager.* Any adverse decision rendered by the events committee or any other city official exercising authority under this article is initially appealable to the city manager. An initial appeal to the city manager must be submitted within five business days after receipt of the adverse decision by filing a written notice of appeal, together with a written statement containing the grounds for the appeal, with the city manager, with copies of the notice of appeal and statement of grounds provided to the events committee. The city manager shall promptly act upon a timely filed appeal following receipt of the notice of appeal.
- (2) *Appeal to City Commission.* Upon a denial by the city manager of an applicant's timely appeal under subsection (1) of this section, the applicant shall have the right to appeal to the city commission the adverse decision rendered by the events committee or any other city official exercising authority under this article. The applicant shall make the appeal to the city commission within five business days after receipt of the city manager's denial of the initial appeal by filing a written notice of appeal, together with a written statement containing the grounds for the appeal, with the city manager, with copies of the notice of appeal and statement of grounds provided to the city clerk and the events committee. The city commission shall act upon the appeal at its next regularly scheduled meeting following receipt of the notice of appeal.
- (3) *Standard of review.* On appeal to the city manager or the city commission, the city manager or the city commission, as applicable, shall determine whether the adverse decision rendered by the events committee or other city official was appropriate based on the criteria set forth in this article.
- (4) *Court review.* In the event that the city commission rejects an applicant's timely appeal, the applicant may file an immediate request for review with a court of competent jurisdiction.

(Code 1991, § 22-223; Ord. No. 3593, § 1(22-223), 9-24-2002)

Sec. 62-236. – Notice to city and other officials.

Immediately upon the approval of a special event or parade permit, the events committee shall send a copy thereof to the following:

- (1) City Attorney;

- (2) Director of Public Safety;
- (3) Chief of Police;
- (4) Fire Chief;
- (5) Director of Parks and Recreation;
- (6) Director of the Public Works Department;
- (7) Director of Code Enforcement; and
- (8) Responsible head of each public transportation utility, the regular routes of whose vehicles will be affected by the route or location of the proposed special event or parade.

Sec. 62-237. – Contents of permit.

Each special events or parade permit shall state or attach the following information:

- (1) Where a special event or parade is excused from compliance with other provisions of the city code or zoning code as provided in this article, the terms and conditions on which the permittee is excused from compliance with other provisions of the city code or zoning code.
- (2) The starting and approximate ending time.
- (3) Any site plan and/or a traffic plan required by the events committee.
- (4) The minimum and maximum speed of any parade units.
- (5) The maximum interval of space to be maintained between any parade units.
- (6) The portions of the streets, sidewalks or other public places that may be occupied by the special event or parade.
- (7) The maximum length of any parade in miles or fractions thereof.
- (8) That persons in the special event or parade are authorized to ride or drive, or cause to be ridden or driven, animals or animal-drawn vehicles upon public places or streets (if applicable).
- (9) Such other information as the events committee shall find necessary to fulfill the purposes of this article, including any reasonable conditions necessary for the protection of the rights, property and personal safety of persons.

Sec. 62-238. – Compliance; possession of permit.

- (1) A permittee under this article shall comply with all permit directions and conditions. By applying for and being granted a permit, the applicant shall assume all conditions on the face of the permit.
- (2) A permittee shall comply with all applicable laws and sections of the city code and zoning code. Notwithstanding the foregoing sentence, the events committee is authorized to issue permits that expressly allow special events and parades to violate specified provisions of the city code and/or the zoning code for the duration of the special event or parade, including, for example, the signage restrictions set forth in the city code and zoning code and the prohibition against obstruction of pedestrian or vehicular traffic. Any permitted exceptions to the provisions of the city code or zoning code must be expressly listed on the face of the permit.
- (3) The chair or other person heading or leading the special event or parade shall carry the permit personally during the conduct of the special event or parade.

Sec. 62-239. – Prohibitions; carrying of signs and weapons; sound level limitations.

In additions to other prohibitions provided in this article, the following conditions and prohibitions shall apply to all special events and parades:

- (1) It shall be unlawful for any person to participate in a special event or parade for which the person knows a permit has not been granted.
- (2) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed special event or parade to knowingly fail to comply with any condition of the permit.
- (3) It shall be unlawful for any person to ride or drive, or cause to be ridden or driven, any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.
- (4) It shall be unlawful for any person to carry or possess at any special event or parade:
 - (i) any dirk, knife (except a common pocketknife, plastic knife, or blunt-bladed table knife), metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or dart-firing stun gun, each as defined in Section 790.001 of the Florida Statutes, unless expressly authorized pursuant to Chapter 790 of the Florida Statutes or other applicable local, state, or federal law, or (ii) any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.
 - a. As used in this section, “tear gas gun” or “chemical weapon or device” means any weapon of such nature, except a device known as a “self-defense

chemical spray.” “Self-defense chemical spray” means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

- b. Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

(5) *Amplified sound levels.*

- a. Unless otherwise agreed upon in advance with the events committee and incorporated into the permit, no amplified sound generated by the organizers of a special event or parade shall exceed 75 dBA for special events and parades adjacent to residential areas or 85 dBA for special events and parades not adjacent to residential areas. *Amplified sound* is defined for purposes of this section as sound resulting from any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically augments the volume of sound including, by way of example, a radio, television set, bullhorn, or musical instrument.
- b. To comply with the sound level limitations set forth in subsection (5)(a) of this section, the source under investigation must not exceed the applicable sound level limitation as measured both from (i) a distance of 100 feet from the source of the amplified noise, and (ii) the real property line of any sound affected site or unit. *Real property line* is defined for purposes of this section as either: (i) the boundary line of a parcel; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multifamily dwelling; or (iii) on a mixed-use property, the interface between the two portions of the property on which different categories of activity are being performed.
- c. The sounds levels shall be measured with a sound level meter manufactured according to standards prescribed by the American National Standards Institute. Three (3) measurements of the sound source under investigation shall be taken. The metric that shall be applied is the maximum sound level measured during the sound measurement period. Each of the three (3) measurements shall be no less than thirty (30) seconds in duration, and all three (3) measurements shall be taken within a one-hour period. If the sound source under investigation is of a total duration of less than ninety (90) seconds, one thirty-second measurement shall be sufficient.

- d. Correction for ambient sound level shall be made as specified in Table 1, below. If the measured difference between the applicable ambient sound level and the alleged violating sound level is five (5) dBA, each alleged violating sound level shall be reduced by two (2) dBA. If the measured difference is six (6) to eight (8) dBA, the alleged violating sound level readings shall be reduced by one (1) dBA. If such measured difference is nine (9) or more dBA, the alleged violating sound level shall not be adjusted based upon the difference. Fractional decibels shall be rounded to the nearest whole decibel.

TABLE 1

Difference between alleged violating sound level and ambient sound level (in dBA)	Correction (to be subtracted from the measured alleged violating sound level)
9 and higher	0
6-8	1
5	2

Ambient noise is defined for purposes of this section as the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds and those from the source under investigation. The ambient sound level is synonymous with background sound level. Ambient sounds are differentiated from extraneous sounds by the fact that the former are of a more steady state, although they may not be continuous. For purposes of this definition, extraneous sound means a sound of high intensity and relatively short duration which is neither part of the ambient sound, nor comes from the sound source under investigation.

Sec. 62-240. –Public conduct during special events and parades; closing of streets; parking prohibited.

- (1) No person shall unreasonably hamper, obstruct or impede, or interfere with any special event or parade or with any person, vehicle, or animal participating or used in a special event or parade.
- (2) No driver of a vehicle shall drive between the vehicles, persons, or animals comprising a special event or parade when such vehicles, persons, or animals are in motion and are conspicuously designated as part of a special event or parade.
- (3) The chief of police shall have the authority, when reasonably necessary, to: (i) temporarily close streets, sidewalks, and public places constituting a part of the route or location of a special event or parade, and (ii) temporarily prohibit or restrict the parking of vehicles along a street constituting a part of the route or location of a special event or parade. The chief of police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation

thereof. No person shall be liable for parking on a street unposted in violation of this article.

(Code 1991, § 22-224; Ord. No. 3593, § 1(22-224), 9-24-2002)

Sec. 62-241. – Determination of time specified area will be used; maximum length of events; location and time of events.

- (1) *Determination of time specified area will be used.* The maximum amount of time that the specified area will be utilized for the purpose of holding the special event or parade will be determined by the events committee based upon the information contained in the application and the criteria set forth in this article.
- (2) *Maximum length of events.* No single special event or parade shall be conducted for more than four consecutive days. No single special event or parade shall be conducted on any consecutive days of the week other than Thursday, Friday, Saturday, or Sunday.
- (3) *Undue burden on specific locations.* The events committee is empowered to limit the number of special events and parades to be held in any specific neighborhood, area or location in the city within a single calendar year in order to prevent an undue burden from being placed on specific neighborhoods, areas or locations in the city.

(Code 1991, § 22-225; Ord. No. 3593, § 1(22-225), 9-24-2002)

Sec. 62-242. – Admissions charge.

The events committee may grant permission to the sponsor of a special event or parade to charge an admission fee for attendance at the special event or parade. Consideration and granting of such permission shall be based upon the location and duration of the event, its impact upon traffic circulation, provisions for emergency access and crowd safety and control, the frequency of events at the location, and other appropriate factors.

(Code 1991, § 22-228; Ord. No. 3593, § 1(22-228), 9-24-2002)

Sec. 62-243. – Prohibition on use of expanded polystyrene.

(a) *Definitions.* For purposes of this section only the following definitions should apply:

- (1) *Expanded polystyrene* means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

- (2) *Expanded polystyrene containers* means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of expanded polystyrene.
- (3) *City facility* includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the city.
- (4) *Special event permittee* means any person or entity, and their subcontractor(s), issued a special events permit by the city for a special event on city property, in a city facilities or in the city's right-of-way.

(b) *Prohibited use of expanded polystyrene; penalties.*

- (1) Special event permittees, and their subcontractor(s), shall not sell, use, provide food or drink in, or offer the use of, expanded polystyrene articles in city facilities.
- (2) Upon warning, the special event permittee must stop use of the polystyrene item and replace it with a non-polystyrene alternative as soon as practicable. If the special events permittee does not do so within a reasonable amount of time, he/she may be forced to discontinue the service, sale or participation in the event.
- (3) A violation of this section shall constitute a City Code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.

(Ord. No. 2016-08, § 4, 2-9-2016)

Sec. 62-244. – Penalties.

- (1) Any person violating the provisions of any section of this article shall, upon conviction, be punished by fine not to exceed \$500.00 or imprisonment of not more than 60 days, or both.
- (2) Notwithstanding subsection (1) of this section, a fine of up to \$15,000 per violation may be imposed for violations of the provisions of this article if the code enforcement board or a special magistrate finds a violation to be irreparable or irreversible in nature. In determining the amount of the fine, if any, the enforcement board or special magistrate shall consider the following factors: (a) the gravity of the violation; (b) any actions taken by the violator to correct the violation; and (c) any previous violations committed by the violator.

Secs. 62-245—62-256. – Reserved.

- (2) *Expanded polystyrene containers* means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of expanded polystyrene.
- (3) *City facility* includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the city.
- (4) *Special event permittee* means any person or entity, and their subcontractor(s), issued a special events permit by the city for a special event ~~or parade~~ on city property, in a city facilities or in the city's right-of-way.

(b) *Prohibited use of expanded polystyrene; penalties.*

- (1) Special event permittees, and their subcontractor(s), shall not sell, use, provide food or drink in, or offer the use of, expanded polystyrene articles in city facilities.
- (2) Upon warning, the special event permittee must stop use of the polystyrene item and replace it with a non-polystyrene alternative as soon as practicable. If the special events permittee does not do so within a reasonable amount of time, he/she may be forced to discontinue the service, sale or participation in the event.
- (3) A violation of this section shall constitute a City Code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.

(Ord. No. 2016-08, § 4, 2-9-2016)

Sec. 62-244. – Penalties.

- (1) Any person violating the provisions of any section of this article shall, upon conviction, be punished by fine not to exceed \$500.00 or imprisonment of not more than 60 days, or both.
- (2) Notwithstanding subsection (1) of this section, a fine of up to \$15,000 per violation may be imposed for violations of the provisions of this article if the code enforcement board or a special magistrate finds a violation to be irreparable or irreversible in nature. In determining the amount of the fine, if any, the enforcement board or special magistrate shall consider the following factors: (a) the gravity of the violation; (b) any actions taken by the violator to correct the violation; and (c) any previous violations committed by the violator.

Secs. 62-245—62-256. – Reserved.

* * * *

SECTION 3. If any section, part of section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 4. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the City Code, which provisions may be renumbered or re-lettered and the word "ordinance" changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 6. If the City Code's Tables of Contents, Supplemental History Table, or other reference portions are affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This Ordinance shall become effective upon passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-SIXTH DAY OF JULY, A.D.,
2016.

(Moved: Lago / Seconded: Keon)
(Yeas: Keon, Lago, Slesnick, Cason)
(Majority: (4-0) Vote)
(Absent: Quesada)
(Agenda Item: E-2)

APPROVED:



JIM CASON
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY