

## ORDINANCE 1596

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES RELATED TO SPECIAL EVENTS; PROVIDING DEFINITIONS; PROVIDING FOR DESIGNATION OF SPECIAL EVENT ZONES BY THE CITY MANAGER; AUTHORIZING ENHANCED PENALTIES AND ENFORCEMENT IN SPECIAL EVENT ZONES; PROHIBITING SPECIAL EVENTS AT AARON BESSANT PARK DURING WEEKENDS FROM MEMORIAL DAY TO LABOR DAY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. From and after the effective date of this Ordinance, Chapter 4, Section 16 of the City's Code of Ordinances related to Special Events is amended to read as follows:

### **Chapter 4: Special Events**

#### **ARTICLE I – IN GENERAL**

##### **Section 4-16. Definitions.**

The term "*event venue*" shall mean any contiguous or connected area (improved or unimproved or both and including parcels separated by a street or other public way but coordinated as a whole for the event) under common or coordinated control and used for a special event. An event venue may consist of one (1) or more patron gathering spaces, in particular indoor and outdoor spaces but also other types of spaces with different occupancy limits.

The term "*municipal services*" shall mean law enforcement, security, traffic control, emergency medical technician services, fire protection, crowd management, or any other services necessary for the implementation of a special event within the corporate limits of the City of Panama City Beach performed by employees of the City Police or Fire department.

The term "*sandy gulf beach*" shall mean all loose or uncompacted sandy areas, including sand dunes and vegetated areas, lying between the waters of the Gulf of Mexico and the seaward boundary of the seaward most public, vehicular right-of-way.

The term "*special event*" shall mean any assembly of persons which also meets one (1) or more of the following six (6) criteria. Each of the first three (3) criteria define a planned event. Each of the last three (3) criteria define a "pop-up" event.

- (a) ATTENDANCE ANTICIPATED TO EXCEED VENUE CAPACITY (Planned event). It is reasonably anticipated that the number of persons who will attempt to attend the event at any point in time will exceed the number of persons permitted within the event venue. Event venue capacity shall be the aggregate of the capacity of all patron gathering spaces within the venue. The capacity of each gathering space shall be determined (i) by building or life safety code or other law applicable to that space, and (ii) for each other space at the rate of one (1) person for every seven (7) square feet of horizontal space. Parking lots and driveways and pedestrian ingress and egress routes used as such during the event shall not be considered gathering spaces.
- (b) VEHICLE PARKING ANTICIPATED TO EXCEED ON-SITE CAPACITY (Planned event). It is reasonably anticipated that the number of persons anticipated to attend the event by vehicle will exceed on-site event parking based upon an average factor of five (5) persons per vehicle.
- (c) MUNICIPAL RESOURCES ANTICIPATED TO BE REQUIRED (Planned event). The gathering is reasonably anticipated to require for its safe and successful execution the provision or coordination of municipal services by the City or by the event producer to a material degree above that which the City routinely provides under ordinary, everyday circumstances. Municipal services include, but are not limited to fire and police protection, crowd control, traffic control, parking control, street closure, emergency medical services, garbage or trash facilities or clean-up and sanitation facilities (herein "municipal services").
- (d) ACTUAL ATTENDANCE EXCEEDS CAPACITY OF THE VENUE (Pop-up Event). The number of persons attending and attempting to attend an unpermitted assembly of persons exceeds at any point in time the number of persons permitted within the event venue or within any gathering space within the event venue.
- (e) ACTUAL VEHICLE CONGESTION (Pop-up Event). The number of vehicles actually parked and attempting to park to permit the occupants to join an unpermitted assembly exceeds at any point in time on-site parking available.
- (f) MUNICIPAL RESOURCES ACTUALLY REQUIRED (Pop-up Event). The municipal services required for an unpermitted assembly exceed at any point in time the level of municipal services typically available from the City for that time and season after taking into consideration the similar, municipal-type services provided by the person or persons, if any, encouraging the assembly.

All special events are divided into three (3) classes:

- (a) A "*small event*" being an event with an anticipated, maximum attendance at any point in time of five hundred (500) persons or less.
- (b) A "*medium event*" being an event with an anticipated, maximum attendance at any point in time of more than five hundred (500) but less than five thousand (5,000) persons.

- (c) A "large event" being an event with an anticipated, maximum attendance at any point in time exceeding five thousand (5,000) persons.

A parade held on a public street or road and lasting no more than two (2) hours is not, without more, a special event.

Any planned event to be held in any part on the sandy gulf beach is presumed to be a special event. This presumption can be rebutted only by the event producer providing clear and convincing evidence that, based upon the nature, location, time and season of the event it is almost certain that the event will not draw a spontaneous crowd in excess one (1) person for every seven (7) square feet of sandy gulf beach controlled by the producer.

**The term "Special Event Zone" shall mean a contiguous area on or along a roadway, street, or highway which is designated by warning signs. The term includes a parking structure, a parking lot, or any other property, whether public or private, immediately adjacent to or along the designated area.**

(Ord. No. 1379, § 3, 1-5-2016; Ord. No. 1517, § 2, 3-12-2020)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

SECTION 2. From and after the effective date of this Ordinance, Chapter 4, Section 19 of the City's Code of Ordinances related to Special Events is amended to read as follows:

**Sec. 4-19. Spontaneous unpermitted assembly (pop-up events).**

The City has found and determined that some special events occur spontaneously, without a permit, especially if attendance is promoted through instantaneous, social media.

- (1)** If an assembly develops into a special event spontaneously (and therefore without a permit) in either a commercial or non-commercial venue, it shall become the duty of all persons or entities owning or able to control the event venue or who is providing entertainment encouraging the assembly, to take reasonable, diligent and constant measures to reduce the activity or circumstances which caused the assembly to become a special event - that is for example but not limited to:
  - a.** ~~R~~Reducing occupancy to the permitted capacity of the venue or providing transportation to eliminate **unpermitted** off-site parking or vehicular or pedestrian congestion; ~~or to~~
  - b.** ~~p~~**Providing** the additional municipal type services needed to regulate event traffic, maintain the peace and protect the public health and safety;
- (2)** The failure of any such person or entity to immediately after notice from the city make a reasonable, diligent and constant effort to reduce the event below the applicable criteria threshold shall be a violation of this law punishable by civil

penalties specified in this Article and criminal penalties specified in City Code section 1-12.

**(3)** The Chief of Police or his designee is authorized to approve actions to partially or slowly reduce the event below the applicable criteria threshold as compliance if he or she finds (i) that such person is acting expeditiously and reasonably to employ feasibly available resources to address the issues after notice that the assembly has become a special event, (ii) that full reduction to the criteria threshold will not be feasible and (iii) that it would be safer to taper down the event rather than to abruptly close the venue or stop the event.

**(4)** Whether a spontaneous assembly has developed into a special event based upon attendance, vehicle congestion or a need for municipal services (as those services are defined in this Article), or any combination of those three (3), shall be determined by an objective and reasonable examination of the totality of the circumstances at hand, including but not limited to the following factors:

**a.** With respect to attendance and attempted attendance:

- i. The size of the venue.
- ii. Whether the attendance is ticketed.
- iii. Actual attendance at prior, similar events.
- iv. The extent of commercial promotion and advertisement of the event, especially promotion outside of Bay County, by traditional or digital means, but excluding spontaneous social media not initiated, encouraged or orchestrated by a commercial event producer or any person acting on behalf of the event producer or any person with a financial or other personal interest in the event ("spontaneous social media").
- v. The extent of spontaneous social media encouraging attendance at the assembly.
- vi. Whether the location and configuration of the venue, and the nature and presence (sight and sound) of the event, will be likely to draw attendees or observers from the public at large.
- vii. The number in attendance and attempting to attend shall be determined by the Chief of Police or his designee using recognized or previously established law enforcement estimating techniques.

**b.** With respect to actual vehicle congestion, the number of vehicles parked shall be counted, and the number attempting to park shall be determined by the Chief of Police or his designee using recognized or previously established law enforcement estimating techniques.

**c.** With respect to municipal services actually required:

- (i) Repeated pedestrian trespass.
- (ii) Repeated vehicular trespass.
- (iii) Illegal parking.
- (iv) Traffic congestion.

- (v) Apparent need for sanitation facilities as evidenced by public urination or other bodily functions.
- (vi) Repeated and flagrant instances of illegal activity.
- (vii) Repeated noise ordinance violations after notice, including differing offenders.
- (viii) Unusual amount of trash being abandoned with no apparent resources available to clean up after event.
- (ix) Unusual or repeated need for medical assistance.

**(5) For any unpermitted special event, the City Manager is hereby authorized to designate a Special Event Zone and, for all areas within that zone, requiring additional traffic control and security measures including but not limited to:**

- (a) Require the placement of warning signs along each point of ingress/egress into or out of the Special Event Zone.**
- (b) Subject the commission of traffic violations to the enhanced penalties as provided by section 316.1891, Florida Statutes.**
- (c) Place and enforce occupancy limits on private and public property in a Special Event Zone.**
- (d) Assess a reasonable fee for all relevant costs and fees associated with designating and enforcing the special event zone, including, but not limited to, costs and fees for the provision of supplemental law enforcement, firefighter, emergency medical technician or paramedic, and sanitation services.**
- (e) For any special event which takes places in more than one (1) event venue, the City Manager shall be required to establish a Special Event Zone for all contiguous areas between the event venues reasonably necessary to ensure the public health, safety, and welfare.**
- (f) Any Special Event Zone shall be designated by the posting of a clearly legible warning sign at each point of ingress or egress stating, "Special Event Zone—All Fines Doubled. Vehicles Subject to Impoundment for Traffic Infractions and Violations." The warning sign must be large enough to be clearly visible to occupants of passing vehicular traffic on roadways, with letters at least 3 inches in height, and must be posted at least 24 hours before enforcement may commence.**

SECTION 3. From and after the effective date of this Ordinance, Chapter 4, Section 23 of the City's Code of Ordinances related to Special Events is amended to read as follows:

**Sec. 4-23. Action on the application and appeal.**

(1) The City Manager must decide to grant or deny an application at the earliest possible time after receipt.

(2) The City Manager may deny a permit only on one or more of the following grounds:

- a. The permit application is incomplete; a complete application is one that provides all the information or items required by this Article regardless of the sufficiency of the information or item.
- b. The application fee has not been paid;
- c. The proposed event is unlawful;
- d. The proposed event exceeds the maximum number of allowed sandy beach events as provided by sec. 4-25 of this Article;
- e. The application contains a material falsehood or misrepresentation;
- f. It reasonably appears that the proposed event will present a clear and present danger to the public safety or health;
- g. The proposed event is of such a nature or duration that it cannot be reasonably accommodated in the particular venue applied for; or
- h. The applicant has refused to attend or participate in good faith in a pre-permit meeting requested by the City Manager following reasonable notice and scheduling attempts by the City Manager and failed to propose reasonable alternatives.

(3) The City Manager is expressly prohibited from denying any permit based upon the identity of any speaker or entertainer or the viewpoint, content, or type of speech or expression to be displayed so long as such speech or expression is lawful.

(4) Every denial of a permit shall be in writing and shall clearly explain the reason(s) for denial under section 4-23(2). A denial of a permit application as "incomplete" must identify the specific information required by this Article which was not provided. A denial based upon the unlawfulness of an event must identify the law or regulation prohibiting such conduct. A denial under section 4-25 of this Article must identify the conflicting events. A denial based upon a clear and present danger to the public safety or health must identify the specific conditions which reasonably give rise to the danger. A denial based upon the fact that the proposed event cannot be reasonably accommodated in the particular venue applied for must state specific reasons why the area is unsuitable for the event. A denial based upon an applicant's refusal to attend or participate in good faith in a pre-permit meeting, or suggest an alternative, shall identify the steps taken to provide reasonable notice and scheduling of such meeting and, if applicable, any conduct at the meeting demonstrating bad faith participation by the applicant. The purpose of the requirement is to allow the applicant to know the grounds upon which the permit was denied and to permit City Council the opportunity to verify and confirm the objective validity of any denial and to ensure that any limited discretion given to the City Manager under this Ordinance is not abused so as to disfavor protected speech or expression.

(5) The City Manager may

(a). Condition any permit with reasonable requirements concerning the time, place or manner of holding a special event as is necessary to coordinate municipal services, multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the venue, provided that such requirements are narrowly tailored to address these concerns and are not implemented for the purpose of regulating or restricting protected speech or expressive conduct.

(b) Designate a Special Event Zone for any special event and, for all areas within that zone, requiring additional traffic control and security measures including but not limited to:

(i) Require the placement of warning signs along each point of ingress/egress into or out of the Special Event Zone.

(ii) Direct the Police Department to undertake strict and enhanced enforcement of traffic violations within the Special Event Zone. The City Council specifically finds that any actions which impede the normal flow of traffic within a Special Event Zone established under this section constitutes a violation of §316.191(2) and shall be subject to the enhanced penalties set forth therein.

(iii). Assess a reasonable fee for all relevant costs and fees associated with designating and enforcing the special event zone, including, but not limited to, costs and fees for the provision of supplemental law enforcement, firefighter, emergency medical technician or paramedic, and sanitation services.

(iv) For any special event which takes places in more than one (1) event venue, the City Manager shall be required to establish a Special Event Zone for all contiguous areas between the event venues reasonably necessary to ensure the public health, safety, and welfare.

(vi) Any Special Event Zone for a permitted event shall be designated by the posting of a clearly legible warning sign at each point of ingress or egress stating, "Special Event Zone—Traffic Violations Strictly Enforced." The warning sign must be large enough to be clearly visible to occupants of passing vehicular traffic on roadways, with letters at least 3 inches in height, and must be posted at least 24 hours before enforcement may commence.

All permit applications shall be deemed granted as applied for if the City Manager does not grant, grant with conditions, or deny the permit in writing within thirty (30) calendar days of receiving an application for a large event, fifteen (15) calendar days of receiving an application for a medium event, and five (5) business days of

receiving an application for a small event. A permit which is granted automatically under this section is conditioned upon any required city services fee being paid before the permit becomes valid or effective. If an applicant disagrees with the fee required, the provisions of section 4-21(5) shall control.

- (6) The automatic granting of permits provided in section 4-23(5) shall not apply if:
- a. The permit application fee has not been paid;
  - b. The City Manager has indicated his intent to deny a permit under sec.4-23(2) and the applicant has agreed, in writing, to supply the City Manager with additional information which may allow the permit to be granted. In this case, the permit application will be deemed granted if the City Manager does not grant, grant with conditions, or deny the permit in writing within ten (10) calendar days of receipt of the additional information, unless the applicant agrees in writing to provide further additional information, which shall renew the terms and time-frames of this paragraph; or
  - c. The City Manager requests additional time to review the application and the request is agreed to in writing by the applicant. In this case, the permit application will be deemed granted if the City Manager does not grant, grant with conditions, or deny the permit in writing by the expiration of the agreed date.

(7) Every denial of a permit and every conditional grant of a permit challenged by an applicant is appealable to the City Council by letter filed with the City Clerk within three (3) business days after receipt of the denial or proposed conditional grant. The City Council shall grant or deny the permit, or uphold or rescind the conditions, based upon information presented by the applicant and the City Manager or his designee in a *de novo*, quasi-judicial hearing held as soon as practicable. The City Council's decision, including its reasons therefor, shall be announced at the conclusion of the hearing and entered onto the record thereof which shall constitute the Council's final order in any subsequent proceedings and which may, but shall not be required to, express findings of fact and conclusions of law. The hearing may be continued from time to time in the sole discretion of the City Council, provided that if the City Council does not render a final order within fifteen (15) days after filing of the letter of appeal the permit shall be deemed granted.

(Ord. No. 1379, § 3, 1-5-2016)

SECTION 4. From and after the effective date of this Ordinance, Chapter 4, Section 25 of the City's Code of Ordinances related to Special Events is amended to read as follows:

**Sec. 4-25. Limitation of ~~sandy beach~~ Special Events.**

(1) Notwithstanding anything to the contrary herein, permits for large events occurring wholly or partially on the sandy beach shall be restricted to the following limits for any one (1) calendar day:

- (~~4a~~) One (1) large event with deemed attendance in excess of ten thousand (10,000) persons; or



(2b) Multiple large or medium events with aggregate deemed attendance of twelve thousand (12,000) persons where the deemed attendance of no single event is greater than five thousand (5,000) persons; or

(3c) Multiple large or medium events with aggregate deemed attendance of fifteen thousand (15,000) persons where the deemed attendance of no single event is greater than two thousand five hundred (2,500) persons; or

(4d) A total of six (6) large or medium events regardless of deemed attendance.

(5e) Permits shall be issued in the order that substantially complete applications with the required fee are filed.

**(2) No Special Event shall be permitted to take place, in whole or in part, at Aaron Bessant Park on any Friday, Saturday, Sunday between the last Monday in May ("Memorial Day") and the first Monday in September ("Labor Day") in any given year.**

SECTION 5. REPEALER. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. CODIFICATION. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 7. SEVERABILITY. If any clause or portion of this ordinance is held invalid or unenforceable, the remainder of this ordinance shall continue in full force and effect.

SECTION 8. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 22<sup>nd</sup> day of September, 2022.

**CITY OF PANAMA CITY BEACH**

By:   
Mark Sheldon, Mayor

**ATTEST:**

  
Lynne Fasone, City Clerk

EXAMINED AND APPROVED by me this 22 day of September, 2022.

By:   
Mark Sheldon, Mayor

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Lynne Fasone, City Clerk