

ORDINANCE NO. 1322

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE SPECIAL EVENTS ORDINANCE OF THE CITY TO IMPOSE ADDITIONAL REQUIREMENTS UPON LIVE ENTERTAINMENT WITH AMPLIFIED SOUND AVAILABLE ON THE SANDY GULF BEACH; LIMITING THE NUMBER AND SIZE OF SUCH EVENTS ON ANY SINGLE DAY; PROVIDING EXCEPTION FOR LIMITED, SPONTANEOUS GATHERINGS; DEFINING SUCH EVENTS; MAKING FINDINGS OF FACT; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the sandy gulf beach is inherently open and free and frequently populated by large numbers of persons enjoying the sun, gulf waters and beachfront activities; and

WHEREAS, music on the sandy gulf beach is an enjoyable, attractive and positive aspect of tourism in the City; and

WHEREAS, organized, live entertainment with amplified sound directed in whole or in part to the sandy gulf beach in a regulated and controlled environment can also be an enjoyable, attractive and positive aspect of tourism in the City, but without adequate regulation or control such entertainment also spontaneously attracts crowds of revelers and consumption of alcohol which frequently leads to unlawful and potentially dangerous activities; and

WHEREAS, the current special events ordinance does not fully address the many and varied circumstances in which live entertainment directed in whole or in part to the sandy gulf beach can lead to large, unruly, uncontrollable and potentially dangerous crowds; and

WHEREAS, the City finds that extraordinary resources are required to properly police large crowds of persons on the sandy gulf beach and that City resources are inadequate to meet the demands of an unlimited number of multiple special events on or

about the sandy gulf beach in a single calendar day.

NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH.

SECTION 1. From and after the effective date of this ordinance, Article II of Chapter 4 of the Panama City Beach Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text underlined):

CHAPTER 4: AMUSEMENTS

ARTICLE II. SPECIAL EVENTS

Sec. 4-16. Definition.

Sec. 4-17. Permit required; purpose

Sec. 4-18. Application for permit.

Sec. 4-19. Application fee.

Sec. 4-20. Additional information.

Sec. 4-21. Action on the application and appeal.

Sec. 4-22. Posting vendor contacts.

Sec. 4-23. Termination of permit granted.

Sec. 4-24. Limitation of sandy beach events on the same day.

Secs. 4-25—4-49. Reserved.

Sec. 4-16. Definition.

The term "special event" shall mean any gathering of persons, reasonably expected to exceed five hundred (500) persons during any one (1) hour, invited by public advertisement for the purpose of witnessing or participating in any entertainment or exhibition, or purchasing or selling any merchandise, food or beverage, or consuming any food or beverage, primarily in open spaces or temporary or permanent venues or structures not customarily, routinely and frequently used for such purposes, or employing parked vans, trailers or other vehicles, which event is reasonably expected to require for its safe and successful execution the provision and coordination of municipal services by the City or the organizer of the event to a degree above that which the City routinely provides under ordinary, everyday circumstances. A parade held on an officially closed, public street or road and lasting no more than two (2) hours is not, without more, a special event. An event held entirely or partially in a permanent structure or venue designed and intended for such events but which otherwise meets the preceding definition shall be considered a special event if it is reasonable to expect that five hundred (500) or more pedestrians arriving, participating in or leaving the event will at any one (1) time occupy adjacent public streets or public property in association with the event.

The term “special event” shall also mean any gathering of persons in excess of five hundred (500) persons in a site entirely or partially on the sandy gulf beach who are engaged in witnessing or participating in any live entertainment involving electronically amplified sound regardless of whether the event is advertised or whether such persons are invited to attend; PROVIDED HOWEVER that if (i) the amplified sound is directed away from the sandy beach, and if (ii) the amplified sound is reduced to the fullest extent possible without frustrating the purpose of the entertainment, and if (iii) the live entertainment is effectively shielded from sight of persons on the sandy beach or not performed to persons on the sandy beach, either or both in order to prevent persons on the sandy beach from becoming part of the audience of the entertainment, and if (iv) no person associated with the entertainment has solicited or encouraged persons on the sandy beach to assemble or to witness or participate in the entertainment, then an unsolicited and spontaneous gathering of persons on the sandy beach shall not be a special event. This type of special event may also be referred to as a “sandy beach event.” As used here, the term “live entertainment” includes by way of example and not limitation concerts, live performances of music or theater, D.J.’s, contests or events with a master of ceremonies.

Sec. 4-17. Permit required; purpose

No person shall organize, stage, promote or conduct any special event without first securing from the City Manager or his designee a special event permit under this Chapter. The purpose of this law is to promote the public health, safety and welfare by requiring special event promoters to develop and demonstrate the ability to execute feasible plans to safely conduct the event, and to permit the City to understand and prepare for any collateral effects of the event in the community.

Sec. 4-18. Application for permit.

Each application for a special event permit required by section 4-17 shall contain the following:

- (1) The name and address of the applicant and if not a natural person the names and addresses of all persons controlling or owning greater than a five (5) percent interest in the applicant or a parent company of the applicant.

- (2) The dates and times of the event and a brief description of the activities, goods and services and entertainment to be offered. Additionally, for a sandy beach event specification of whether (1) patrons will be permitted to bring alcoholic beverages into the event (herein a “coolers event”), or (2) patrons will not be permitted to bring alcoholic beverages into the event but patrons will be offered alcoholic beverages within the event (herein an “alcohol sales event”), or (3) alcoholic beverages will be prohibited within the event (herein a “no alcohol event”).

(3) An estimate of the largest number of persons anticipated to be in attendance in the event area for each hour of the event (herein, the anticipated, maximum hourly attendance), and a feasible and credible plan for determining the approximate number of patrons actually in attendance in the event area(s) as the event progresses. **For a sandy beach event, attendance shall be deemed to be one (1) person for each seven (7) square feet of patron area shown on the site plan required by this section, regardless of anticipated or actual attendance.**

(4) A feasible and credible plan for adequate sanitation facilities and sewage, garbage and litter collection and disposal (during and after the event) generated by the event or by its patrons (wherever such garbage or litter may be located), water supply and food service. For the purpose of evaluating any such plans, any rules promulgated by the Department of Health or other executive department pursuant to F.S. Ch. 381 (Public Health), F.S. Ch. 386 (Sanitary Nuisances), F.S. Ch. 509 (Food Service), or similar laws, may be considered.

(5) A feasible and credible plan for flood-lighting the special event and parking areas if any activities are to be offered during darkness.

(6) A feasible and credible plan for adequate parking facilities and plans for transporting or conducting patrons from said facilities to the special event area.

(7) A feasible and credible plan for provision of adequate traffic control, security and emergency vehicle access in and around the special event area.

For a special event other than a sandy beach event, the ~~Any such plan~~ shall provide for at least one (1) person professionally trained in traffic control for every five hundred (500) anticipated, maximum hourly attendees, and at least one (1) certified law enforcement officer or person licensed as a security guard under F.S. Ch. 493 (Class "D" or better) on duty for every one thousand (1,000) anticipated, maximum hourly attendees, with no security or traffic personnel working more than one (1) eight (8) hour shift in any twenty-four (24) hour period. The plan shall include a detailed description of the plan of security, traffic control, communications, fire protection and emergency services, including ambulance service, to be used and how it is to be implemented, and the general background of the training and ability of the personnel to be used in implementing the plan.

For a sandy beach event, the plan shall provide for the following: for a "cooler event" at least five (5) persons professionally trained in house security, at least one of whom shall be a certified law enforcement officer or person licensed as a security guard under F.S. Ch. 493 (Class "D" or better), on duty for every one thousand (1,000) deemed attendees; for an "alcohol sales event" at least three (3) persons professionally trained in house security, at least one of whom shall be a certified law enforcement officer or person

licensed as a security guard under F.S. Ch. 493 (Class "D" or better), on duty for every one thousand (1,000) deemed attendees; and for a "no alcohol event" at least at least one certified law enforcement officer or person licensed as a security guard under F.S. Ch. 493 (Class "D" or better) on duty for every one thousand (1,000) deemed attendees. No security personnel may work more than one (1) eight (8) hour shift in any twenty-four (24) hour period. The plan shall include a detailed description of the plan of security, traffic control, communications, fire protection and emergency services, including ambulance service, to be used and how it is to be implemented, and the general background of the training and ability of the personnel to be used in implementing the plan.

(8) A feasible and credible plan for adequate medical facilities at the special event. The staffing guidelines for events presenting a moderate hazard which are set forth below shall be used to evaluate the plan and may be decreased or increased by the City Manager or his designee after consultation with the Chief of Police, the Fire Chief and one (1) or more persons serving as a Director of Emergency Medical Services in Bay County, depending upon whether the event presents a lower or higher hazard.

For an anticipated, maximum hourly attendance rate of five hundred (500) persons or less - none.

For an anticipated, maximum hourly attendance rate of more than five hundred (500) but less than one thousand (1,000) persons - one (1) EMT or paramedic.

For an anticipated, maximum hourly attendance rate exceeding one thousand (1,000) persons - one (1) additional EMT or paramedic per each 2,000 additional, anticipated maximum hourly attendees, or portion thereof.

By way of illustration, moderate hazard events include, but are not limited to, regional events, concerts, carnivals and fairs. Similarly, low hazard events include, but are not limited to, car shows, flea markets, local festivals, craft shows, local sporting events, and organized sporting tournaments. High hazard events include, but are not limited to, an event with stunts or having the potential for special danger to participants or spectators, or the potential for sustained exposure to extreme ambient temperatures. A low or moderate event may present a higher hazard due to extreme temperatures. Higher hazard events may be required to provide an Advanced Life Support Unit with transport capability. Staffing shall be equipped with customary supplies necessary to treat injuries and illnesses commonly associated with outdoor activities or similar events.

(9) Plans demonstrating that all stages, booths, tents, scaffoldings or structures of any nature on, under or within which persons may congregate, shall conform to the applicable building and other construction codes then in effect in the City.

(10) A list of the names and addresses of all vendors, artists, independent contractors or other persons or firms which will be engaged by or associated with the applicant to offer the goods, services or entertainment comprising the special event, including a description of the goods, services or entertainment offered by each and the name and address of the person who will have on-site responsibility, if different. Should such a list not be available at the time application is made, applicant shall give a written statement to that effect and agreeing to furnish such a list no later than thirty-six (36) hours before the event and acknowledging that failure to timely provide such a list will result in termination of the special event permit.

(11) A site plan showing the location and size of the event area(s) and all parking areas (including required handicap parking), and the location of all other features required by this section. **For a sandy beach event, the site plan shall show a cleared east/west corridor on the sandy beach outside the event area(s) adequate to permit the one-way passage of an emergency vehicle, and a cleared east/west pedestrian corridor at and above the wet sand at the waters edge at least twenty five (25) feet wide.**

(12) A feasible and credible plan to provide and control safe pedestrian access between parking area(s) and event area(s) which will minimize adverse impacts upon surrounding properties and businesses. **For a sandy beach event, a feasible and credible plan to keep the east/west emergency vehicle corridor and the waterfront pedestrian corridor open for traffic at all times.**

(13) A feasible and credible plan to enclose, restrict or control access to all parking and event area(s) and to limit the number of persons within the event area(s) to the maximum number anticipated, and a feasible and credible contingency plan to deal with persons in excess of that number to minimize adverse impacts upon surrounding properties and businesses. **For a sandy beach event, plans demonstrating that the event area(s) will be enclosed on all sides by fences or other structures adequate to prevent access to the event at any point other than controlled access gates, but also demonstrating adequate egress facilities and routes to clear the event area in case of an emergency. The fences or other structures shall be opaque and of sufficient height (but never less than six (6) feet) so as to prevent persons standing on ground level outside the fence or event area(s) from viewing the entertainment. A running, current count of attendees shall be kept at the gate(s) of a sandy beach event and actual attendance shall not exceed the deemed attendance.**

(14) To be credible, a plan must include either evidence that the applicant is **qualified, experienced and** capable of executing it alone, or written commitments from **one or more** qualified, **experienced and capable** third parties promising to execute or assist the applicant in executing the plan and acknowledging that the commitment is being made to induce the City to issue a permit for the event.

(15) For events anticipating a maximum hourly attendance rate of one thousand (1,000) persons or more a cash deposit in the amount of two thousand dollars (\$2,000) or one thousand dollars (\$1,000) per day, whichever is greater, but not to exceed five thousand dollars (\$5,000). The return of such deposit, in whole or in part, shall be conditioned upon the applicant timely and completely performing all of the plans submitted with the application or reimbursing the City for all direct and indirect costs incurred to protect public or private health, safety or welfare in the absence of such performance. In the event any such cost shall exceed the amount of the deposit, the applicant shall be liable to the City for such excess to the extent permitted by law.

Sec. 4-19. Application fee.

Application for a special event permit shall be accompanied by a fee of three hundred fifty dollars (\$350.00) for administrative expense. **If a sandy beach event permit is not issued due to other sandy beach event(s) occurring on the same calendar day the application fee shall be refunded.**

Sec. 4-20. Additional information.

Before denying a permit based upon a written application, the City Manager or his designee shall give the applicant written notice of any deficiencies in the application and provide the applicant an opportunity to present additional written information addressing those deficiencies.

Sec. 4-21. Action on the application and appeal.

(1) The permit shall be deemed granted if the City Manager does not grant or deny the permit in writing within twenty (20) days after receipt of the completed application or additional information if applicable and payment of the application fee. The City Manager's decision shall be based upon the completeness of the application and the feasibility and credibility of the required plans. The City Manager shall deny the application of any person who previously has failed to fully comply with this Chapter, previously submitted a plan required by this Chapter which in execution proved to be inadequate or not feasible, or materially understated or underestimated attendance at an event in the City that was or became a special event (collectively and severally a "Prior Failure") unless such person shall demonstrate by a preponderance of the evidence that the Prior Failure was due to circumstances beyond the person's control and that those circumstances should not have been anticipated by a reasonable person in the position of the

applicant at the time. For the purpose of considering a Prior Failure, any act or omission by any person with which the applicant is associated in the current application shall be considered the applicant's failure; that is, a party in interest in an application cannot avoid explaining a Prior Failure by presenting a new individual or entity as the applicant.

(2) A denial shall include the reason for denial and state that the applicant shall have the right to appeal to the City Council the decision of the City Manager by letter filed with the City Clerk within three (3) business days after receipt of the denial. The City Council shall grant or deny the permit 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 may be practicable. The City Council's decision, including their reasons therefore, 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 thirty (30) days after filing of the letter of appeal the permit shall be deemed granted.

Sec. 4-22. Posting vendor contacts.

If the permit is granted, the applicant shall conspicuously display to the public (on a form to be provided by the City Manager) the name, mailing address, email address, and telephone number of each vendor, artist, or other person offering goods, services, or entertainment at the special event, including if different, the name, mailing address, email address and telephone number of the individual with on-site responsibility for the vendor, artist or other person. Such form shall be continuously displayed at the booth or specific location within the special event where such goods, services or entertainment are offered.

Sec. 4-23. Termination of permit granted.

If the permit is granted, the facilities, areas, services and hourly staffing as demonstrated in the application shall be continuously provided during the special event, and any failure to so provide shall result in the automatic suspension of the permit and suspension of the event until full provision is made. Should attendance exceed hourly estimates (or deemed attendance for a sandy beach event) for a sustained period of one (1) hour and appear likely to continue, the applicant shall immediately limit attendance and provide additional staffing ~~use its best efforts to provide additional staffing~~ to meet the requirements specified in Sections 4-18(7)(6) and 4-18(8)(7) or suspend the event until those requirements are met. Conversely, should actual attendance fall below the hourly estimates for a sustained period and appear likely to continue at reduced levels, the City Manager or his designee shall be authorized, but not required, to allow the applicant to reduce staffing to the minimum requirements specified in said sections.

Sec. 4-24. Limitation of sandy beach events on the same day.

Notwithstanding anything to the contrary herein, a permit for a sandy beach event shall not be issued if it would cause any one of the following limits to be exceeded during any one (1) calendar day:

A single sandy beach event with deemed attendance in excess of ten thousand (10,000) persons; or

Multiple sandy beach 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

Multiple sandy beach 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;

A total of six (6) sandy beach events regardless of deemed attendance.

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

Secs. 4-25—4-49. Reserved.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 3 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 4. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City

Council of the City of Panama City Beach, Florida, this ____ day of _____,
2014.

CITY OF PANAMA CITY BEACH

ATTEST:

By _____
GAYLE F. OBERST, MAYOR

HOLLY J. WHITE, CITY CLERK

PUBLISHED IN _____ ON THE ____ DAY OF _____, 2014.

POSTED ON pcb.gov.com ON THE ____ DAY _____, 2014.

CITY CLERK