

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1: That Chapter 4, "Business Regulations", of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Section 34 of the Charter of the City of College Station.

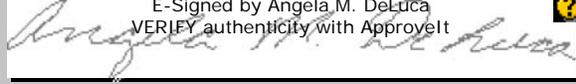
PASSED, ADOPTED and APPROVED this _____ day of _____, 2005.

APPROVED:

RON SILVIA, Mayor

ATTEST:

Connie Hooks, City Secretary

E-Signed by Angela M. DeLuca
VERIFY authenticity with ApproveIt


City Attorney

EXHIBIT "A"

That Chapter 4, "Business Regulations", Section 4, "Carnivals, Circuses, Menageries, Sideshows, Concessions, and Special Events", of the Code of Ordinances of the City of College Station, Texas, is hereby amended by deleting the entire section and substituting the following:

"SECTION 4: CARNIVALS, CIRCUSES, MENAGERIES, SIDESHOWS, CONCESSIONS, AND SPECIAL EVENTS

A. PERMIT REQUIRED

It shall be unlawful to operate or conduct within the City any carnivals, circuses, menageries, sideshows, concessions, or special events without first securing a permit.

Permits required by this section shall be posted on site in a conspicuous location for the duration of the event.

B. DEFINITIONS

For the purposes of this section, the following terms shall have the meaning given herein:

(1) Applicant

"Applicant" means a person who has filed a written application for a permit.

(2) Building Official

"Building Official" means the Building Official of the City of College Station, Texas or his delegate.

(3) Carnival

"Carnival" means and includes amusement activities, rides, merry-go-rounds, booths for the conduct of games of skill, food dispensing facilities, and side shows. A carnival shall not include gambling devices, games of chance, lotteries, or other activities in violation of state law.

(4) Chief of Police

“Chief of Police” means the Chief of Police of the City of College Station, Texas, or his delegate.

(5) Circus

"Circus" means and includes a public entertainment consisting of but not limited to performances by people and animals.

(6) Director of Utilities

“Director of Utilities” means the Director of Utilities of the City of College Station, Texas, or his delegate.

(7) Event

“Event” means and includes any carnival, circus, menagerie, sideshow, concession, or special event.

(8) Fifteen Day Operation

"Fifteen Day Operation" means the greater of fifteen (15) calendar days or one hundred-fifty (150) hours of operation in a calendar year.

(9) Fire Marshal

“Fire Marshal” means the Fire Marshal of the City of College Station, Texas, or his delegate.

(10) Menagerie

"Menagerie" means and includes a collection of live animals on exhibition.

(11) Non-profit Association

“Non-profit Association” means an association in which no part of the income of which is distributable to its members, directors or officers.

(12) Northgate Central Business District

“Northgate Central Business District” means the Northgate area identified and referenced in Resolution number 10-21-2004-13.04.

(13) Sideshow and Concessions.

"Sideshow and Concessions" means and includes circuses, menageries, carnivals, and other amusement enterprises, which are open to the public and for which a fee is charged for admission.

(14) Special Event

"Special Event" means a for-profit or non-profit event to which the public is invited, held on public or private property, at which over 250 individuals attend, and held outside the confines of a building or permanent structure.

The term includes but is not limited to any meeting, entertainment, performance, show, exhibition, or amusement. The term also includes events in the Northgate Central Business District, regardless of attendance, providing for the sale and/or consumption of alcohol.

The term does not include events held in residential structures, licensed premises, buildings not owned or controlled by the City, gatherings for athletic events that are held in facilities designed for athletic events or events held within the confines of the Wolf Pen Creek Amphitheater.

C. FIFTEEN DAY OPERATION

No event shall be operated under a permit authorized herein for more than the greater of fifteen (15) calendar days or one hundred-fifty (150) hours during a calendar year. Operation of such an event for more than the referenced length of time shall be considered a permanent business for which site plan approval is required under the City of College Station Unified Development Ordinance. If the event is not operated on consecutive calendar days, an inspection as provided under Subsection H herein shall be required each time before the event resumes.

D. NORTHGATE CENTRAL BUSINESS DISTRICT

An event in the Northgate Central Business District providing for alcohol sales and/or consumption shall have a valid permit or license to sell or serve alcoholic beverages issued by the Texas Alcoholic Beverage Commission.

An event in the Northgate Central Business District involving the sale and/or consumption of alcohol shall not be operated under a permit authorized herein for more than three consecutive days.

E. EXEMPTIONS

City sponsored events are exempt if:

- (1) The event is held on City property; or
- (2) A policy or procedure establishes protocols for security, public safety, sanitation, crowd control and traffic control.

F. APPLICATION REQUIREMENTS

A permit application shall be submitted to the Building Official at least ten (10) business days in advance of the proposed opening date or time of said event. The Building Official may accept an application less than ten business days prior to the event provided all permit requirements have been met. Said application shall be in writing and shall include the following information (if applicable):

- (1) The name, address and telephone number of the applicant and of any other persons responsible for the conduct of the special event.
- (2) The name of the firm or corporation.
- (3) The location of the principal place of business of such firm or corporation
- (4) A description of the event.
- (5) Whether the event will be in a tent, building, aerodrome, or open area.
- (6) The location of the event.
- (7) The projected number of people to attend each performance or event.
- (8) The proposed opening date(s).
- (9) The hours and days of the week it will be open to the public.
- (10) The provisions to be made for parking.
- (11) The provisions to be made for vehicular ingress and egress.

- (12) The parking facility and surface composition.
- (13) The nature and location of temporary signs.
- (14) The zoning of the land on which the event will be held.
- (15) The details (such as vendor information, perimeter fencing location, etc.) related to the sale and/or consumption of alcoholic beverages at the event.
- (16) A building plan drawn to scale which shall include:
 - (a) Type of construction of any structure.
 - (b) Seating arrangement.
 - (c) Aisles.
 - (d) Structural details and calculations of seats and supports.
 - (e) Location of all electrical wiring.
 - (f) Location of all exits.
 - (g) Location of all fire equipment within any flammable structure and specifications of such equipment.
- (17) A site plan, adequately dimensioned or drawn to scale, which shall include:
 - (a) Location of any adjacent structures and obstructions which might hinder free ingress and egress of persons from exits.
 - (b) Locations of hydrants. Fire hydrants must be within five hundred feet (500') of any combustible structures on site.
 - (c) Location of fire lanes, limited in use for ingress and egress of fire trucks showing width of twenty feet (20'), height of fourteen feet (14').
 - (d) Location of parking facilities.
 - (e) Electric transmission and distribution lines on site.

- (18) The length of time any structure is intended to be used for the purpose applied for.
- (19) The length of time the event is to be carried out.
- (20) The formula of the solution which is used or has been used to flameproof any structure.
- (21) The date on which flameproof solution was applied to any structure.
- (22) The number and location of sanitary facilities for persons using the premises on which the event is to be carried out.
- (23) Provisions for site cleanup and grading if necessary.
- (24) The applicant shall provide and place printed signs on which the words "No Smoking" shall appear in letters at least (4") high in conspicuous places.

G. CONDITIONS OF PERMIT

In addition to other requirements set forth herein, the applicant shall furnish suitable evidence of his intention and ability to comply with the following conditions:

- (1) The applicant shall be wholly responsible for maintaining order and for keeping the site clean, free of trash, papers, and other debris.
- (2) Trash containers in adequate numbers shall be placed in convenient locations for the use of the public.
- (3) Sanitary facilities for persons using the premises.
- (4) Provisions for removal of other waste materials including animal waste materials.
- (5) Provisions for meeting all other application requirements.
- (6) Provisions for site cleaning and grading after use of the premises.
- (7) The premises shall have adequate ingress and egress.

- (8) Use of premises shall not violate the provisions of the National Electric Code as adopted by the City of College Station's Code of Ordinances.

H. APPROVAL OF APPLICATION

- (1) Inspection by the Fire Marshal. The Fire Marshal, in reviewing an application for a permit, shall before such structure or event is open to the public make an inspection to determine if the applicant has made provision for:
- (a) Adequate aisles, seats, platforms, and poles.
 - (b) Sufficient exits well marked and properly lighted.
 - (c) Lighted and unobstructed passageways to areas leading away from the structure.
 - (d) Removal, before the structure is to be used as a place of public assembly, of any pole, rope, or other obstruction in any aisle or exit.
 - (e) Sufficient first aid fire appliances to be distributed throughout the structure with operating personnel familiar with the operation of such equipment available and assigned during the use of such structure as a place of assembly.
 - (f) Sufficient "No Smoking" signs visible at all times.
 - (g) An employee at all entrances to require the extinguishing of all cigarettes, cigars, or other smoking materials.
 - (h) Announcement at frequent intervals to persons in assembly that smoking within the structure is prohibited.
 - (i) Proper safeguarding of any use of open flames or its use prohibited.
 - (j) The clearing of straw, dry grass, sawdust, or other combustible trash from the structure before it is opened to the public and arrangement made to keep the areas where debris may be expected to accumulate well serviced, especially under open seats.
 - (k) Proper facilities for calling the City Fire Department.

- (l) Such special fire equipment of the City to attend to such structure made during its use as a public assembly as is necessary for proper fire protection.
 - (m) The tent and canvas parts of the structure, and all combustible, decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, and trees, to be rendered flameproof.
 - (n) If the Fire Marshal determines that the attendance of any fire apparatus or equipment is necessary at or in the vicinity of such structure for fire protection pursuant to the International Fire Code, as adopted by City Council, he shall so notify the Building Official who shall notify the applicant before approval of the application.
 - (o) The attendance of such fire personnel as the Fire Marshal may deem necessary for the control of persons in the assembly, to prevent overcrowding, obstruction of aisles and exits, and such other control as may be necessary to render the occupation of such structure by the public safe.
 - (p) Internal fire lanes which meet the twenty foot (20') wide, fourteen foot (14') high access requirement.
- (2) Inspection by the Building Official
- (a) The Building Official shall ascertain if any defect exists in the wiring and provide for immediate correction of any defects which may be found.
 - (b) Ascertain that seats, platforms, and other structural components are adequate to withstand proposed usage.
 - (c) Make an inspection to determine if provision has been made for satisfactory sanitary facilities on or near the premises on which the event is being carried out.
 - (d) Make inspection and determine if adequate trash containers are located on the premises.
- (3) Inspection by the Chief of Police
- (a) The Chief of Police shall make an inspection of such structure or event location before the event is open to the public.

- (b) An applicant for an event permit shall provide certified peace officers as approved by the Chief of Police for security, crowd control, and traffic control at the event in accordance with the following schedule:

Number of Participants and Spectators at Event	Minimum Number of Peace Officers Required
0 to 250	0
251 to 1,500	2
1,501 to 3,000	4
3,001 to 5,000	6
over 5,000	6 plus 1 peace officer for every 1,000 participants and spectators over 5,000 at the event

- (c) The Chief of Police may increase or decrease the number of certified peace officers from those required in the table above, if:

- (1) Any alcoholic beverage is sold, served, or otherwise made available at the event;
- (2) Special needs for an increase or decrease in security, crowd control, or traffic control are created by
 - (A) The topography of the site or size of the event
 - (B) Weather conditions during the event; or
 - (C) The time of day during which the event is conducted
- (3) The event requires street closures or rerouting of vehicular or pedestrian traffic; or
- (4) The history of the particular event indicates that a greater or lesser number of peace officers are required to protect the public health, safety, and welfare.

- (d) The Chief of Police shall review the application to determine the potential impact of traffic, potential noise complaints, and access of emergency vehicles.

- (e) If the Chief of Police determines that traffic control devices such as barricades are needed to control traffic at such structure or event, he shall contact the Public Works Division to erect such devices.

- (f) When the presence of licensed peace officers is necessary, every applicant shall pay for the services of such personnel. The fee for peace officers shall be according to the City's off duty pay schedule.

(4) Inspection by the Director of Utilities

The Director of Utilities shall inspect the premises to determine whether proposed use of the site, including the location of structures and equipment, complies with the College Station Electric Safety Code.

I. CITY INSPECTION POLICY

- (1) It is the policy of the City that immediately upon arriving at the premises to be inspected, the Building Official, Chief of Police, or Fire Marshal will ordinarily identify himself to an employee at the premises showing an identification card if the employee is not acquainted with the Building Official, Chief of Police, or Fire Marshal or if the Building Official, Chief of Police, or Fire Marshal is not dressed in the apparent uniform of the City of College Station showing his affiliation with the City of College Station. If there is no employee at the scene, the Building Official, Chief of Police, or Fire Marshal may enter any area that is open to the public at the time without identifying himself. The Building Official, Chief of Police or Fire Marshal making a lawful investigation requiring a delay in identification need not identify himself immediately, providing that no person shall be required to admit any such unidentified person to any premises. If the Building Official, Chief of Police, or Fire Marshal is not permitted to enter any place or any part of any premises for inspection, the Building Official, Chief of Police, or Fire Marshal shall not use force but shall leave the premises and seek a search warrant or other appropriate court order to make entry possible.

J. AMENDED APPLICATION

All events shall take place in accordance with the approved application documents. Any changes made in the application shall be submitted for approval as an amended permit application. Failure to submit an amended application may result in denial/revocation of such permit.

K. APPLICATION FEE

- (1) The applicant shall pay a non-refundable application fee of \$200.00 upon submission of an application to the City. The application fee may be

waived for a non-profit association holding an event. The application fee shall not be waived for any event involving alcohol sales and/or consumption.

(2) Re-Inspection Fee

If the event is not operated on consecutive calendar days, the City shall re-inspect the premises as provided herein. A re-inspection fee of \$50.00 shall be paid by the applicant to the City to cover the cost of each re-inspection.

L. INSURANCE

No permit shall be issued for conducting an event under this section until the applicant has filed with the Building Official a Certificate or Certificates of Insurance, indicating that there is in effect public liability insurance covering any damages arising out of the use and operation of any and all devices and facilities operated in connection with the event. A public liability insurance policy shall be issued by a company authorized to do business in the state of Texas. The policy shall be accompanied by a certificate from such company that such policy will be in force and effect during the period of time of the event. Such policy shall be in an amount not less than One Million Dollars (\$1,000,000.00) for the death or injury of one person, and not less than Two Million Dollars (\$2,000,000.00) for death or injury in any one accident.

M. PERMIT BOND

The applicant shall submit a permit bond prior to the issuance of a permit. The bond shall be in the amount of Ten Thousand Dollars (\$10,000.00) to cover the entire cost estimated for cleaning up of debris caused by such event, to cover required City Services, and to cover potential damage or injury to property. The bond shall be valid for a period of no less than thirty (30) days after the event is terminated by the applicant hereunder. The bond may be used by the City for cleanup and repair of City property or the property of any resident deemed by the City to have been damaged by the applicant or applicant's employees as a result of the event. In the event the bond is executed to cover costs incurred by the City, the amount of the bond, less deductions for costs incurred or for the replacement, cleanup, or repair of the property of third parties, shall be refunded.

N. CONTRACT

The applicant, in tendering his application and receiving a permit, agrees and contracts with the City that he will not exclude at any time any Building Official, Chief of Police or Fire Marshal on duty for the purpose of inspecting, maintaining, and assuring the health, safety, and welfare of the City of College Station.

O. REVOCAATION

A permit issued pursuant to this section may be revoked if:

- (1) The applicant fails to comply with or the event is in violation of any provision of the permit, city ordinance, or any other applicable law.
- (2) The application contains a false statement of material fact; or
- (3) The Building Official, Chief of Police, or Fire Marshal, determine that the event poses a serious threat to the public health, safety or welfare.

The applicant or any other person responsible for the event will be notified of such revocation and shall immediately terminate the event.

P. DENIAL/APPELLATE REVIEW

The Building Official may deny a permit if the applicant has not met all the requirements established in this section. The applicant may, within five (5) days of the denial, appeal the Building Official's decision to the City Manager. The City Manager or his delegate shall hold a hearing within ten (10) days thereafter. After the close of the hearing, the City Manager or his delegate shall make a determination concerning approval, denial, or modification of the permit within five (5) days.

Q. PENALTIES

Any person, firm or corporation violating any of the provisions of this ordinance shall be fined pursuant to the General Penalty set out in Chapter 1, Section 5 of this Code of Ordinances."