

## ORDINANCE NO. 09-2022

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ARTICLE XI. – SPECIAL EVENTS AND PARADES; PROVIDING FOR AMENDMENTS RELATED TO THE CLOSURE OR GATING OF PARKS, DEFINITIONS, PERSONNEL SERVICES, REVIEW CRITERIA AND OTHER PROVISIONS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, the City Council desires to modify the City's special events ordinance regarding definitions, personnel services, review criteria, the approval process for closing or gating portions of City parks and other provisions set forth herein related to conducting a special event or parade; and

**WHEREAS**, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

### **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

**Section 2. Code Amendment.** Chapter 2, Article XI. – Special Events and Parades is hereby amended as follows (strikeout type indicates deletions from the City Code and underlined type indicates additions), while asterisks (\* \* \*) indicate a deletion from the Ordinance of text existing in Chapter 2, Article XI. It is intended that the text in Chapter 2, Article XI denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this ordinance):

### **CHAPTER 2 – ADMINISTRATION**

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## **Article XI. – Special Events and Parades**

### **Sec. 2-401. – General provisions.**

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(d) *Definitions.* The following terms as used in this article shall have the following meaning respectively ascribed to them unless the context clearly indicates otherwise. All references to the singular shall also encompass the plural.

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Maintenance of Traffic (MOT) Plan shall mean a traffic management plan that includes operational strategies for managing event-generated and background traffic on the day of the event with the areas impacted.

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### **Sec. 2-402 Special Event.**

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(I) *Closure or gating of public property and streets.*

(1) Streets may be closed, portions of streets and parks may be gated, and an admission fee may be charged in connection with a special event involving a street closure, at the discretion of the city council. Closure of parks or portions of parks may be gated, and an admission fee may be charged in connection with a special event involving a park closure, at the discretion of the city manager.

(2) In reviewing a request for closure of a street, gating of a park or the charging of an admission fee for the special event, due regard shall be given to public safety and environmental effects of such closing, to ensure that all reasonable steps are taken to minimize the adverse effect such closings may have upon the public. As part of this review, the applicant is to provide an MOT plan meeting Florida Department of Transportation specifications for street and sidewalk closures. This plan shall also indicate the proposed detour routes and closure times. The components of this plan including site access and parking planning, pedestrian access planning, and traffic control planning. Appropriate signage and traffic control devices are to be shown within the proposed plan from the event organizer. This plan shall be included as part of the Special Event Permit Application.

(p) *City of Cocoa Personnel Services.*

(1) Services required. The police, fire and public works department shall review all applications for a special event permit to determine the required amount of extra personnel that may be needed from each respective department. The City of Cocoa shall provide to approved applicants, in its sole discretion:

a. An estimate of the number of required police, fire and public works personnel that will be required for the special event;

b. All required police, fire, and public works personnel for the special event, unless prior written approval is obtained from the city manager, or city manager's designee.

(2) Payment for services. At least thirty (30) days prior to the special event, approved applicants shall provide full payment to the city for the estimated cost of all city personnel services required and provided by the city for the special event. The city shall utilize the most recently adopted special event fee schedule in estimating the cost of required city personnel services. Any revisions in required city personnel services provided at the special event will be either invoiced or refunded, as is appropriate, within fourteen (14) days following the conclusion of the special event.

(3) *Criteria for minimum deployment of police personnel. Deployment and use of all city personnel ultimately remains with the city, the chief of police, or designee. Factors considered with the deployment of personnel are whether there is alcohol sold at the event and the number of potential attendees at the event. The determination will be made with public safety as paramount above all other considerations:*

a. Special events with a high probability of potential hazard to public safety, alcohol sales and more than 1,500 people may require a minimum of eleven (11) officers including one (1) supervisor, and one (1) command level officer.

b. Special events with a moderate probability of potential hazard to public safety, no alcohol sales and more than 1,500 people may require a minimum of six (6) officers including one (1) supervisor.

c. Special events with a low probability of potential hazard to public safety, with or without alcohol sales and less than 1,500 people may require a minimum of three (3) officers including one (1) supervisor.

At the discretion of the chief of police, or designee, and in conjunction with the leisure services manager, or designee, adjustments to the required personnel, equipment, or additional resources required for an event based upon the risks and activities associated with the event may occur.

(4) Criteria for minimum deployment of fire personnel. Deployment and use of all city personnel ultimately remains with the city, the fire chief, or designee. Factors considered with the deployment of personnel are whether there is alcohol sold at the event and the number of potential attendees at the event. The determination will be made with public safety as paramount above all other considerations:

a. Any event that causes a street closure, which closure does not leave at least fourteen (14) feet of clearance for emergency vehicle access shall be required to have a minimum of two (2) fire personnel for the duration of the event.

b. Any event with less than five hundred (500) people in attendance shall be required to have a minimum of two (2) fire personnel for the duration of the event.

c. Any event with more than five hundred (500) people in attendance shall be required to have a minimum of four (4) fire personnel for the duration of the event and a minimum of one (1) command level personnel.

d. Any event with fireworks shall be required to have a minimum of three (3) fire personnel and one (1) command level personnel, beginning at least one-half (1/2) hour prior to the launch of the fireworks and ending at least one-half (1/2) hour after the conclusion of the launch of the fireworks.

e. All events that have food vendors will be required to have vendors inspected by the City's fire inspector the day of the event prior to the vendor being able to operate at the event. Cost for the fire inspector will be charged to event organizer for the time required to inspect all food vendors on site.

At the discretion of the fire chief, or designee, and in conjunction with the leisure services manager, or designee, adjustments to the required personnel, equipment, or additional resources required for an event based upon the risks and activities associated with the event may occur.

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(r) Suspension or Revocation of permits.

(1) The city manager, or police chief or fire chief in the case of a bona fide emergency, shall have the authority to immediately suspend or revoke a special event permit issued under this section, as follows:

a. Upon a violation by the permit holder or the permit holder's agents, employees, or contractors, of any of the requirements set forth in this article or one (1) or more of the conditions contained upon within the permit.

b. When a bona fide public emergency arises where the police and fire resources being utilized for a permitted special event are immediately required for that emergency to protect the health, welfare and safety of persons or property.

(2) Notice of the suspension or revocation shall be given to the permit holder by the most practicable and expeditious manner available under the circumstances.

(3) A violation of a notice of suspension or revocation shall constitute a code violation subject to the penalties and remedies set forth in Sec. 1-8 of the City Code or alternatively, a Class IV violation under Chapter 6, Article II, Division 2, - Code Enforcement Citations.

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**Sec. 2-403. – Parades.**

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(c) *Application review.*

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(4) The city manager shall issue a parade permit when, from a consideration of the application and from such other information as may otherwise be obtained, it appears that:

- a. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- b. The conduct of the parade will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- c. The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- d. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to the assembly area;
- e. The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;
- f. The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance;
- g. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

- h. The applicant for a permit has not violated the terms of any previous parade permit granted to the applicant and has not caused undue traffic congestion and police problems under any previous parade permit;
- i. There is no other previously approved parade permit for the same time and location; and
- j. The applicant has submitted an affidavit indicating the applicant has provided a courtesy notice to each affected property owner as required in the application for permit; and
- k. As part of this review, the applicant is to provide an MOT plan meeting Florida Department of Transportation specifications for street and sidewalk closures. This plan shall also indicate the proposed detour routes and closure times. The components of this plan including site access and parking planning, pedestrian access planning, and traffic control planning. Appropriate signage and traffic control devices are to be shown within the proposed plan from the event organizer. This plan shall be included as part of the Special Event Permit Application.

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(m) Suspension or Revocation. The ~~leisure services manager and/or city manager or chief of police~~ shall have the authority to suspend or revoke a parade permit issued under this section where a permittee fails to abide by the standards and conditions imposed upon the permit or when a bona fide public emergency arises where the police and fire resources being utilized for a permitted parade are immediately required for that emergency to protect the health, welfare and safety of persons or property. A violation of a notice of suspension or revocation shall constitute a code violation subject to the penalties and remedies set forth in Sec. 1-8 of the City Code or alternatively, a Class IV violation under Chapter 6, Article II, Division 2, - Code Enforcement Citations.

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**Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

**Section 4. Incorporation Into Code.** This Ordinance shall be incorporated into the City Code for the City of Cocoa, and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

**ADOPTED** by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the 9th day of August, 2022.

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**Michael C. Blake, Mayor**

ATTEST:

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**Carie Shealy, City Clerk**

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| First Reading:      | 07/26/2022 |
| Second Reading:     | 08/09/2022 |
| Legal Ad Published: | 07/31/2022 |
| Effective Date:     | 08/09/2022 |