

**ORDINANCE NO. 2021-\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE XI OF THE CITY CODE RELATING SPECIAL EVENTS; 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**, in 2018, the City adopted a revised Master Fee Schedule for City Facility Rentals, Special Events, and Parades, by way of Resolution Number 2018-047, which both revised relevant fees charged and also restructured the classification of special event applicants into five tiered categories for the purposes of determining the fees or user charges imposed pursuant to the Master Fee Schedule; and

**WHEREAS**, following the City's adoption of Resolution Number 2018-047, City staff conducted a review of the City Code provisions relating to special events and parades and has recommended that certain related provisions be amended as set forth herein so as provide for the same classification system for such applicants, and to otherwise coincide with the revised Master Fee Schedule as intended by City staff; and

**WHEREAS**, City staff also currently recommends the adoption of a minimally revised Master Fee Schedule via resolution at this time, contends that such revised Master Fee Schedule coincides with all recommended City Code revisions, and has provided same to the City Council for consideration; 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 of the City Council of the City of Cocoa.

**Section 2.**     **Amendment to Chapter 2, Article XI.** The City of Cocoa Code of Ordinances, Chapter 2, Article XI, Special Events and Parades is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, 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):

## **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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~~*Application fee* shall mean the non-refundable fee paid in connection with an application made pursuant to this article.~~

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*City sponsored event* shall mean any special event for which the city is the primary sponsor, but which event is not necessarily planned or conducted by the city. City-sponsored events include, but are not limited to: Cocoa Rotary Party in the Park, ~~Fiesta Brevard~~, Wednesday Friendsday Chamber Networking Event, and Mardi Gras Paws in the Park ~~and Cocoa Mardi Gras~~.

*Cocoa Village Partnering Organization* shall mean any not-for-profit organization that's sole purpose is to attract visitors to the Cocoa Village area or that promotes the Cocoa Village area as a destination. Status as a 501(c)(3) tax-exempt organization is not required.

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~~*Sanitation fee* shall mean the non-refundable fee required to be paid pursuant to this article for the issuance of a permit to hold a special event.~~

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*Special event fee* shall mean the fee paid in connection with the Special Event application made and use permit issued pursuant to this article.

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

- (a) ~~*Application; application*~~ *Special Event fees*. Permit applications for a single special event or a series of special events shall be filed with the leisure services manager ~~accompanied by the~~

~~requisite application fee(s)~~ and submitted on forms approved by the city council as set forth herein. In addition to the information required upon the application, applicants shall provide a site plan and internal security plan as attachments to the application.

- (1) Single special event. Any person or organization which desires to hold a single special event must make application for a special event permit no later than sixty (60) days prior to the commencement of such event. However, applications shall not be accepted sooner than 365 days prior to the commencement of the single special event. Unless otherwise exempt pursuant to section 2-404, all special events shall be subject to a special event fee as established by resolution. ~~such application shall be accompanied by a non-refundable application fee as specified in this section.~~

- (2) *Series of special events.*

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- c. Each special event within the series of events shall be subject to a special event fee and a damage and clean-up fee ~~non-refundable application fee.~~ ~~The application fee for the first event shall be submitted with the application.~~ All other fees shall be submitted no later than ~~60~~ 30 days prior to the special event.

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- (c) *Application review; criteria to grant permit.*

- (1) Upon receipt of the completed application ~~and application fee~~, as required by this section, the date(s) of the special event will be conditionally reserved on the leisure services master calendar pending final approval by the city manager. The leisure services manager shall forward copies of the application to the special events review committee, which shall consist of the leisure services manager and representatives from the departments of police, fire/emergency medical services, and public works for review. Department review is typically conducted electronically and will be submitted to each department thirty (30) to forty-five (45) days prior to each special event. Each department will review the application, endorse comments thereon and determine the number of extra personnel hours cost estimated to be required from such departments. The leisure services manager shall inform the applicant of the special events review committee's comments and estimated costs. The comments so forwarded shall be retained with the application file.

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- (4) In determining whether to grant the particular permit in accordance with the time, manner and place requested, whether to deny the permit as requested and propose a modified time, manner and place, or whether to deny the permit altogether, the city manager shall be guided by the following criteria:

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- d. Notwithstanding the foregoing, the city manager may deny a permit to an applicant where:

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4. The applicant has not tendered the required ~~application~~ special event fee ~~with the application and has not submitted thirty (30) days prior to the event and the payment of extra personnel hours cost, sanitation fee, and damage and clean-up deposit thirty (30) days prior to the event;~~

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- (h) *Pre-event walkthrough and post-event evaluation.* Prior to the commencement of each special event, the leisure services manager, or designee, shall conduct a walkthrough of the event site in order to assess the condition of the site. The applicant shall be present during the walkthrough and any damage or debris existing at the time of the walkthrough shall be noted in writing by the leisure services manager.

A post-event evaluation will be conducted at the conclusion of the special event. This will include a review of the applicant's clean-up efforts, payment in full of any amounts due to the city, and an evaluation of the applicant's adherence to the rules and regulations set forth in the special event permit. This post-event evaluation will provide the information for future determinations by the city of the applicant's "conditional standing" or "good standing" established pursuant to this section.

- (i) *Sanitation* . One (1) eight-cubic yard dumpster (or equivalent yardage) must be utilized for every two thousand (2,000) people in attendance at the special event. The applicant shall submit an invoice or receipt from the dumpster provider evidencing that this requirement is met at least ten (10) days prior to the start of the event. Dumping in an unapproved dumpster is prohibited. For events that are longer than one (1) day in duration, all dumpsters must be emptied at least once each day by a waste service provider. All temporary garbage containers must be removed from the property no later than the day after the conclusion of the event. All fees associated with securing the required dumpsters and garbage containers shall be paid by the applicant. At the conclusion of the special event, the applicant shall ensure that all trash and debris is picked up and disposed of properly. In the event the city expends funds to clean up after a special event, such funds will be deducted from the applicant's damage and clean-up deposit and any additional fees above and beyond that deposit will be invoiced to the applicant.

~~At the conclusion of the special event, the applicant shall ensure that all trash and debris is picked up and disposed of properly. In the event the city expends funds to clean up after a special event, such funds will be deducted from the applicant's damage and clean-up deposit and any additional fees above and beyond that deposit will be invoiced to the applicant.~~

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- (k) *No Exemption for city sponsored ~~or city organized~~ events* . All applicants for special events must submit an application according to the rules and regulations set forth in this section. City sponsored events ~~and city organized events~~, as defined in section 2-401 of this Code, shall not be exempt from such requirement.

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- (n) *Event and permit classification.*

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- (2) ~~Classes~~ Tiers of special event permits and the evaluated factors for each ~~class~~ tier shall be as follows:

- a. ~~Class A~~ Tier 1 permit. For a special event which will require between fifty (50) and one hundred (100) extra personnel hours or for which the attendance is anticipated to be in excess of fifteen thousand (15,000) persons over the entire period of the special event. A Special Event or Parade which the attendance is anticipated to be less than 1,000 Persons and is organized by either a Non-profit (501(c)(3)) Organization or a Cocoa Village Partnering Organization.
- b. ~~Class B~~ Tier 2 permit. For a special event which will require between twenty five (25) and fifty (50) extra personnel hours or for which the attendance is anticipated to be between two thousand (2,000) and fifteen thousand (15,000) persons over the entire period of the special event. A Special Event or Parade which the attendance is anticipated to be less than 1,000 Persons and is organized by a for profit organization.
- c. ~~Class C~~ Tier 3 permit. For a special event which will require between three (3) and twenty five (25) extra personnel hours or for which the attendance is anticipated to between than two hundred fifty (250) and two thousand (2,000) persons over the entire period of the special event. A Special Event or Parade which the attendance is anticipated to be in excess of 1,000 Persons and is organized by a Non-profit (501(c)(3)) Organization.
- d. Tier 4 permit. A Special Event or Parade which the attendance is anticipated to be in excess of 1,000 Persons and is organized by a Cocoa Village Partnering Organization.
- e. Tier 5 permit. A Special Event or Parade which the attendance is anticipated to be in excess of 1,000 Persons and is organized by a for profit organization.

- (o) *Fee schedule; deposits; special event fee; service fees; permit fees.* The city council shall adopt by resolution a special event fee schedule which itemizes all applicable fees and charges imposed in accordance with this article to defray city costs and expenses related to implementing this article. Unless otherwise exempt pursuant to section 2-404 ~~or this section~~, any applicant seeking to make application for and obtain a special event permit shall agree to pay to the city the fees required under the special event fee schedule adopted by the city council.

- (1) No later than thirty (30) days prior to each special event being held, applicants shall make full payment to the city for the ~~facility rental~~ special event fees, ~~sanitation fee~~, damage and clean-up deposit, public safety costs and special use fee(s). Applicants seeking approval of a series of special events shall be responsible for deposits and fees for each special event and shall make payment to the city for each special event consistent with the requirements of this subsection.

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- (3) All approved applicants will be categorized into one (1) of the following groups and assessed security deposits accordingly:

- a. *Conditional standing*— The city may classify applicants for an event with past issues such as damage to property, improper clean-up after an event, unpaid fees or violation of permit rules and regulations as having conditional standing. Applicants with conditional standing shall submit a security deposit in the amount of one thousand dollars (\$1,000.00) to the city prior to the event start date. If the event is conducted as agreed to in the special events permit, the security deposit will be ~~required~~ returned within thirty (30) days of the conclusion of the event and the applicant may be considered to have good standing for the next event. If the event is not conducted once again as agreed upon in the special event permit, the applicant may be denied future event permits with the city and a portion or all of the security deposit will not be returned to the applicant.

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- (4) *Waiver of special event fee.* The City Manager, or designee, shall have the authority to waive only such special event fee as is established by the applicant's "Tier" category. Public safety personnel fees and other special fees shall not be waived. Only fundraising events conducted by non-profit (501(c)(3)) organizations will be considered for special event fee waivers. A special event fee waiver request shall be treated as a request for City sponsorship of the special event. If such special event fee waiver is granted, the applicant shall promote the City's sponsorship of the special event as directed by the City. A request in writing must be made with submission of the application along with a copy of any available sponsorship opportunities for the special event.

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**Sec. 2-403. - Parades.**

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(b) *Application.*

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- (3) Unless otherwise exempt pursuant to section 2-404, ~~such application shall be accompanied by a nonrefundable application fee as specified in this article.~~ all parades shall be subject to a special event fee as established by resolution.

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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 \_\_\_\_ day of \_\_\_\_\_, 2021.

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**Michael C. Blake, Mayor**

ATTEST:

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Carie Shealy, City Clerk