

**COMMISSION
AGENDA REPORT**

Meeting Date: July 27, 2021
Item Number: _____

City of Lynn Haven

From: City Attorney

Prepared By: Kevin Obos

Subject: Ordinance #1115

Staff Recommendations (In motion - ready form): Motion to approve Ordinance #1115 creating Article III – Special Events – of Chapter 42 of the Code of Ordinances relating to special events.

I. Report In Brief:

Overview: This Ordinance creates Article III of Chapter 42 of the Code of Ordinances to provide for the regulation of special events in the City of Lynn Haven. **This Ordinance does not apply to private residential property.** The Ordinance defines “Special Events” to mean an assembly of persons, whether planned or unplanned, which also meets one or more of the following criteria:

(1) 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;

(2) It is reasonably anticipated that the number of persons anticipated to attend the event by vehicle will exceed on-site event parking; or

(3) The gathering is reasonably anticipated to require for its safe and successful execution the provision or coordination of services by the City or by the event producer to a material degree above that which the City routinely provides under ordinary, everyday circumstances. City 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.

This will not impact routine or normal meetings that take place in City facilities, rented or otherwise, unless the event falls into one of the above three categories. The Ordinance provides for applications, permit fees and enforcement by the City. Staff recommends approval of Ordinance #1115.

II. Concurrences: None

III. Fiscal Impact: N/A

IV. Advertised: Date: Newspaper: News Herald **Not Required:**

V. Affected Parties Notified of Meeting: **Not Required:**

VI. Alternatives:

VII. Attachments: Ordinance 1115

Approved as to Content: _____
City Manager

Date: _____

Action Taken by Commission: Approved

Disapproved

Continued/Deferred until: _____
Special Instructions:

Other:

CITY OF LYNN HAVEN, FLORIDA

ORDINANCE NO. 1115

AN ORDINANCE OF THE CITY OF LYNN HAVEN, FLORIDA, REGULATING SPECIAL EVENTS IN THE CITY OF LYNN HAVEN; CREATING "ARTICLE III – SPECIAL EVENTS" OF CHAPTER 42 OF THE CITY'S CODE OF ORDINANCES; CREATING DEFINITIONS; REQUIRING PERMITS; PROVIDING FOR SUSPENSION OF PERMITS; REGULATING EVENTS ON CITY PROPERTY; REGULATING SPONTANEOUS UNPERMITTED EVENTS; PROVIDING FOR APPLICATION AND PERMIT FEES; PROVIDING FOR APPEAL; PROVIDING FOR ENFORCEMENT AND PENALTIES; REPEALING PROVISIONS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; AND RECITING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF LYNN HAVEN, FLORIDA:

SECTION 1. Article III, Chapter 42 of the City of Lynn Haven Code of Ordinances is hereby created to read as follows:

Article III – SPECIAL EVENTS

Sec. 42-61. -- Title of article.

This article shall be known as the City of Lynn Haven Special Events Ordinance.

Sec. 42-61. -- Purpose.

The purpose of this article is to provide for the regulation of special events in the City of Lynn Haven, excluding private residential properties.

Sec. 42-62. -- Definitions.

"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 or more patron gathering spaces, in particular indoor and outdoor spaces, but also other types of spaces with different occupancy limits. A private residential property shall not be considered an event venue.

"Special event" shall mean any assembly of persons, whether planned or unplanned, which also meets one or more of the following criteria:

- (a) Attendance anticipated exceeds venue capacity. 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 by the building or life safety code or other law applicable to that space.

(b) Vehicle parking anticipated exceeds on-site capacity. It is reasonably anticipated that the number of persons anticipated to attend the event by vehicle will exceed on-site event parking.

(c) City resources anticipated. The gathering is reasonably anticipated to require for its safe and successful execution the provision or coordination of services by the City or by the event producer to a material degree above that which the City routinely provides under ordinary, everyday circumstances. City 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 "City services").

All special events are divided into three classes:

(a) A "small event" being an event with an anticipated, maximum attendance at any point in time of more than 50 but less than 100 persons.

(b) A "medium event" being an event with an anticipated, maximum attendance at any point in time of 100 or more but less than 500 persons.

(c) A "large event" being an event with an anticipated, maximum attendance at any point in time exceeding 500 persons.

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

Sec. 42-63. -- Permit required; purpose.

No person or entity shall stage, promote or conduct any special event without holding a valid special event permit granted by the City Manager under this chapter. The purpose of this law is to ensure that special events do not endanger public health or safety and to permit the City to understand and prepare for known collateral and secondary effects of special events in the community. The permitting process is not intended to control or regulate special events based on their content, the nature or type of speech involved, or any speaker's viewpoint. City hosted or sponsored special events are exempt from the permit requirements of this section.

Sec. 42-64. -- Events in City owned parks, facilities, streets and right of ways.

No person or entity shall conduct any planned event or class in a City of Lynn Haven owned park or facility without first reserving space through the City Community Services Department. Any planned event in a City of Lynn Haven owned park or facility with an anticipated attendance that exceeds 50 people is presumed to be a special event under this ordinance that requires a special event permit. The City reserves the right to require applicants for special events in City facilities, parks, streets or right of ways to obtain

insurance, depending on the size and circumstances of the event, and further to name the City as an additional insured to the coverage for the event.

Sec. 42-65. -- Suspension of permit; remedy of excesses (Planned events).

(1) Each plan included in the special event application, and any conditions imposed by the City Manager shall be continuously implemented during the special event, and any failure to do so shall result in the automatic suspension of the permit and suspension of the event until full implementation is made.

(2) Should the actual attendance in the event venue or any gathering space within the event venue, the actual number of vehicles, or the City services actually required at a permitted event exceed for a period of one hour the number or level anticipated by the application and permit, it shall become the duty of all persons owning or able to control the event or the event venue to take reasonable and diligent measures to reduce the excess until achieved. The failure of any such person to immediately, after notice from City Manager or the City Police Chief, or their designees, make a reasonable and diligent effort to reduce the excess shall be a violation of this law punishable by penalties specified in City of Lynn Haven Code Sec. 1-13. The City Police Chief, or his/her designee, is authorized to shut down or slowly reduce the event below the applicable criteria threshold as compliance.

(3) Conversely, should actual attendance fall below the permit estimates for a sustained period and appear likely to continue at reduced levels, the City Manager or his/her designee shall be authorized, but not required, to allow the applicant to reduce staffing to the minimums reasonably required.

Sec. 42-66. -- Spontaneous unpermitted assembly.

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 noncommercial venue, it shall become the duty of all persons or entities owning or able to control the event venue to take reasonable and diligent measures to reduce the activity or circumstances which caused the assembly to become a special event. The failure of any such person or entity to immediately, after notice from the City Manager or City Police Chief, or their designee, make a reasonable and diligent effort to reduce the event below the applicable criteria threshold shall be in violation of this law punishable by Lynn City Code Sec. 1-13. The City Police Chief, or his/her designee, is authorized to approve actions to shut down or slowly reduce the event below the applicable criteria threshold as compliance.

(2) Whether a spontaneous assembly has developed into a special event based upon attendance, vehicle congestion or a need for City services, or any combination of those three, shall be determined by an objective and reasonable examination of the totality of the circumstances at hand.

Sec. 42-67. -- Application for permit.

(1) Each application for a special event permit required by this article shall contain the information described below and must be filed, and the permit fee paid, no less than the following number of days before the opening of the event to the public:

- (a) Forty-five (45) calendar days for a large event;
- (b) Twenty (20) calendar days for a medium event; and
- (c) Ten (10) calendar days for a small event.

Notwithstanding the forgoing, the City Manager may, in his/her discretion, waive the time requirements for applications in extraordinary circumstances. Applications shall be reviewed in the order received and priority shall be given to timely filed applications.

(2) All applications for a permit under this article must contain:

- (a) The name, address, telephone number and email address of the applicant.
- (b) The dates and times of the event.
- (c) The name, address, telephone number, and email address of the person responsible for managing the special event.
- (d) A list of all vendors offering goods or services during the special event, including a description of the goods and services offered by each.
- (e) A list of all entertainers.
- (f) Whether (i) patrons will be permitted to bring alcoholic beverages into the event (herein a "coolers event"), or (ii) 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 (iii) alcoholic beverages will be prohibited within the event (herein a "no alcohol event").
- (g) An estimate of the largest number of persons anticipated to be in attendance in the event venue at any point in time and a plan to manage and control or disburse the persons desiring to enter the event after capacity is reached.

(3) The City reserves the right to require any or all of the following additional information depending on the size or circumstance of the special event:

- (a) A plan for sanitation facilities, garbage and litter collection and disposal, water supply and food service.
- (b) A plan for flood-lighting the special event and parking areas if any activities are to be offered during darkness.

(c) A plan for parking facilities, controlling traffic, and/or plans for transporting or conducting patrons to and from the special event venue.

(d) A plan for the provision of security, on-site and off-site traffic control, communications, fire protection and emergency services, including ambulance service, and emergency vehicle access in and around the event venue, and the general background of the training and ability of the personnel to be used in implementing the plan.

(e) A plan for medical services to be provided at the special event.

(f) A plan for assuring that all stages, booths, tents, scaffoldings or structures of any kind on, under or within which persons may congregate, will conform to applicable building and construction codes in effect within the City.

(g) A site plan showing the location and size of the event venue, all parking areas (including required handicap parking), entrances and exits, and the location of all other features required by this section.

(h) A plan to provide and control safe pedestrian access between parking area(s) and the event venue which will minimize adverse impacts upon surrounding properties and businesses.

Sec. 42-68. -- Application fee and City services fee.

(1) Application for a special event permit shall be accompanied by one of the following applicable fees for administrative expenses incurred in evaluating and processing the application:

(a) For small event, \$50.00.

(b) For a medium event, \$225.00

(c) For a large event, \$350.00.

(2) As part of the City's administrative review of an application for a medium or large event permit, or a special event planned in a City owned park or facility, the City shall determine the City services needed as a direct result of the event, together with any City services requested by the applicant, and their respective costs, and shall prepare an itemization of the services and their cost (the City services fee). The purpose of the City services fee is to place upon medium and large events the marginal cost of providing City services which are reasonably necessary to directly support the event.

(3) The level of City services required shall be determined by an objective, reasonable examination of the totality of the circumstances, including but not limited to the following factors:

(a) The size of the event venue and the anticipated attendance.

(b) The location of the event to determine the potential for pedestrian and vehicular congestion.

(c) The nature of the event and the activities planned during it.

(4) The City Manager or his or her designee shall promptly provide the applicant a copy of the itemization and amount of the City services fee and attempt to schedule or arrange a pre-permit conference with the applicant in order to discuss the conduct of the event, the coordination of public and private resources, and the level of City services required and the amount of the City services fee. It shall be the applicant's duty to attend the pre-permit meeting at a day and time convenient for City staff, or to request an alternative to the pre-permit meeting and the City Manager shall allow the request if it is reasonable and practical to do so.

(5) If the applicant does not accept the type and extent of City services listed and the amount of the City services fee, the City shall nonetheless proceed in ordinary course to complete the application process and either deny the permit through the process contained in this article without consideration of the applicant's objection to the fee, or if the applicant is entitled to the permit then grant the permit upon the condition that the City services fee be paid before the permit becomes valid or effective.

Sec. 42-69. -- Additional information.

Before denying a permit or conditioning a permit upon things not included in the application or agreed to by the applicant, the City Manager or his/her designee shall give the applicant written notice of the deficiencies in the application or the need to add conditions to the permit and provide the applicant an opportunity to present additional written information addressing those deficiencies or needs. The City Manager shall make a reasonable effort to facilitate the applicant's addressing the deficiencies in time to hold the event, but also taking into consideration the City's resources and other matters at hand.

Sec. 42-70. -- 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 final permit application as presented is deficient and the applicant refused to correct the deficiencies within a reasonable time;

(c) The application fee has not been paid;

(d) The proposed event is unlawful;

(e) The application contains a material falsehood or misrepresentation;

- (f) It reasonably appears that the proposed event will present a 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.
- (5) The City Manager may condition any permit with reasonable requirements concerning the time, place or manner of holding a special event as is necessary to coordinate City 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.
- (6) Every denial of a permit and every conditional grant of a permit challenged by an applicant is appealable to the City Commission by letter filed with the City Manager within three business days after receipt of the denial or proposed conditional grant. The City Commission 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 Commission'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 commission's final order in any subsequent proceedings and which may, but shall not be required to, express findings of fact and conclusions of law.

Sec. 42-71. -- Enforcement and penalties.

- (1) The City finds that a violation of any section of this article presents a serious threat to the public health, safety and welfare which is irreparable and irreversible and of an itinerant or transient nature.
- (2) Unless otherwise specified, each violation of this article shall constitute a separate, civil infraction as provided for in City of Lynn Haven Code Sec. 1-13.
- (3) In addition to the penalties stated herein, the City may enforce this code by any other means provided by law.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. If any phrase, clause, sentence, paragraph, section, or subsection of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such

unconstitutionality or invalidity shall not affect the remaining phrases, clauses, sentences, paragraphs, sections or subsections of this Ordinance.

SECTION 3. It is the intention of the Commission that the provisions of this Ordinance shall become a part of the City's Code of Ordinances. The provisions of this Ordinance may be renumbered or re-lettered with cross-references corrected and the word "ordinance" may be changed to "section", "article", "division" or other appropriate word to accomplish such intention.

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

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Lynn Haven, Florida, this ____ day of _____, 2021.

CITY OF LYNN HAVEN, FLORIDA

Jesse Nelson, Mayor

ATTEST:

Vickie Gainer, City Manager-Clerk