

ORDINANCE NO. 2022-1133

CITY OF MARIANNA EVENT ORDINANCE NUMBER 2022-1133; PROVIDING A TITLE; PROVIDING FOR THE REQUIREMENT OF A PERMIT; PROVIDING FOR AN APPLICATION; PROVIDING FOR A FILING PERIOD; PROVIDING FOR THE CONTENTS OF THE APPLICATION; PROVIDING FOR FEES; PROVIDING POLICE PROTECTION; PROVIDING FOR THE PROTECTION OF FIRST AMENDMENT RIGHTS; PROVIDING FOR THE STANDARDS FOR THE ISSUANCE OF A PERMIT; PROVIDING FOR AN ALTERNATIVE PERMIT; PROVIDING FOR THE CONTENTS OF THE PERMIT; PROVIDING FOR THE DUTIES OF THE PERMITTEES; PROVIDING FOR THE REGULATION OF PUBLIC CONDUCT DURING ASSEMBLIES; PROVIDING FOR THE REVOCATION OF PERMITS; PROVIDING FOR THE PROHIBITION OF UNLAWFUL DISCRIMINATION; PROVIDING FOR INDEMNIFICATION AND INSURANCE; PROVIDING FOR PERMITS FOR BLOCK PARTIES; PROVIDING FOR PENALTIES; PROHIBITING THE DISTURBANCE OF THE PEACE; PROVIDING FOR DIVISIBILITY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES FOR THE CITY OF MARIANNA, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Marianna is charged with providing a safe environment for its citizens and visitors; and

WHEREAS, social media has enabled event coordinators access to a wider group of potential participants for outdoor events within the City of Marianna; and

WHEREAS, the City of Marianna has determined a need to plan for and provide services for events in order that the events may be safely held; and

WHEREAS, the City of Marianna has determined that an outdoor event ordinance as set forth below will enable the City to allocate appropriate resources for future outdoor events:

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA, ADOPTS THE FOLLOWING PROVISIONS WHICH SHALL BE KNOWN AS THE CITY OF MARIANNA EVENT ORDINANCE :

I. PERMIT REQUIRED

(a) No person shall advertise, engage in, participate in, aid, form, or start any outdoor special event unless an outdoor special events permit shall first have been obtained from the chief of police and approved by the city commission.

(b) The issuance of an outdoor special events permit shall not relieve any person from the duty to secure other permits or approvals as may be required by the City Code to include, but not be limited to, a tent permit, an occupational license, street, lane, or sidewalk use/closure authorization, a permit for loud speaker or other sound amplification device, and approval for sale of items on public property.

II. APPLICATION FOR OUTDOOR SPECIAL EVENTS PERMIT AND EXEMPTIONS

A special event is described as any activity in a public or private outdoor venue which the anticipated attendance is in excess of 50 people and that is not otherwise regulated.

Any person seeking the issuance of an outdoor special events permit shall file an application with the chief of police on forms provided by the chief of police or the city's website.

Any person who has an executed lease agreement from the City for City property shall be exempted from this ordinance.

The following annual events are also exempt from this ordinance;

- a. Marianna Homecoming Parade
- b. City of Marianna Christmas Parade

- c. City of Marianna Fourth of July Festival
- d. Veteran's Day Parade
- e. Martin Luther King Day Parade
- f. Farm City Day Parade

III. FILING PERIOD

a. For single, non-recurring outdoor public events, an application for a permit shall be filed with the chief of police not more than 60 days before, and not less than 30¹ calendar days before, the date and time at which it is proposed to commence the event; provided, however, that the chief of police may waive the minimum 30-day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the event, the anticipated number of participants, and the necessity for an amount of city services which will be required in connection therewith, that such waiver will not present a hazard to the public safety because of the reduced amount of time available within which to fully process the application. The application shall be signed by the applicant and witnessed.

b. For outdoor public events which are to be held on a regular or recurring basis at the same location during a calendar year, an application for a permit covering all such events during that calendar year may be filed with the chief of police not more than 60 days before, and not less than 30 days before, the date and time at which it is proposed to commence the first such event; provided, however, that the chief of police may waive the minimum 30-day period after due consideration of the factors specified in (1)a. above. However, waiver of the 30-day period does NOT remove the requirement for City Commission approval.

IV. CONTENTS OF APPLICATION

The application for a permit shall set forth the following information, and such other information as may from time to time be reasonably required:

- a. The name, place of residence, mailing address, and telephone number of the person/entity seeking to conduct the events.

¹ Any event scheduled prior the enactment of this ordinance for the month of June or July 2022 shall require an application be filed within 10 calendar days from the passage of this ordinance by City Commission.

- b. If the event is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
- c. The name, place of residence, mailing address, and telephone number of the individual person who will be the event chairperson and who will be responsible for the conduct of the event.
- d. The date when the event is to be conducted.
- e. Type of event including a description of the activities which will occur during the event.
- f. The hours when such event will start and terminate.
- g. A description of any and all recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices which will be utilized in connection with the event.
- h. The approximate number of participants, not including spectators, who will participate in the event.
- i. The approximate number of spectators who will be present at or near the event.
- j. If the event is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the event, authorizing the applicant to apply for the permit on his/her behalf.
- k. The exact location of the event and if the event is a parade, the location by streets of any marshaling area or areas for such parade.
- l. A designation of any public facilities or equipment proposed to be utilized.
- m. The application shall be signed by the applicant and witnessed.
- n. If the application is for a parade, it also shall set forth the following information:
 - 1. The time at which units of the parade will begin to arrive at the marshaling area or areas, and the times at which all such units will be disbursed there from.
 - 2. The route to be traveled, including the starting point and the termination point.

3. The approximate number of persons who, and animals and vehicles which will constitute such parade, the type of animals, and description of the vehicles.

4. A statement as to whether the parade will occupy all or only a portion of the width of the streets or sidewalks to be used.

o. Whether alcoholic beverages will be sold or served at the event.

p. If the event is a run/walk or parade event, a route shall be designated

V. FEES.

a. A non-refundable special event fee of \$25.00 to cover the administrative cost of processing the permit must accompany the application for a permit. The fee schedule shall be subject to adjustment from time to time by resolution of the city commission.

b. If the application is for the use of any city property or if any city services shall be required for the event, the applicant shall pay, prior to the issuance of a permit, the charges thereof in accordance with a schedule of fees approved by city commission.

c. The special event fee shall be waived by the city commission if the activity proposed by the applicant involves (1) expressive speech protected by the First Amendment to the United States Constitution, (2) will occur in a public forum, (3) the fees would be so financially burdensome that it would preclude the applicant from exercising First Amendment rights, and (4) adequate alternate channels of expression are not available. The city shall put the applicant's request on the agenda of the next city meeting and promptly advise the applicant of its decision and the reasons for it. An applicant wishing to appeal the decision of the city may file a request for immediate judicial review with a court having jurisdiction thereof.

VI. - POLICE PROTECTION.

The chief of police shall determine whether and to what extent additional police protection reasonably will be necessary for the event for purposes of traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time, and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections to be blocked, and the need to detour or preempt ordinary citizen travel and use of the streets and sidewalks. The

content of the speech or event will not be a factor in determining the amount of police protection necessary. If possible, without disruption of ordinary police services or compromise to public safety, the event will be policed by regularly scheduled on-duty personnel. If additional police protection for the event is deemed necessary by the chief of police, he or she shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the chief of police at the sole expense of the applicant who shall prepay 50 percent of the estimated expenses of such protection. The event organizer will be responsible to pay each additional required officer's wage at an amount of time and a half for each officer, directly to the City of Marianna. In the event that the overall number of officers needed for security requires the use of officers from neighboring agencies, the organizer will be responsible for any and all wages owed to the neighboring agencies.

VII. - PUBLIC ISSUE SPEECH.

Persons exercising their first amendment rights by engaging in events, parades, assemblies, or demonstrations conducted for the sole or primary purpose of public issue speech shall not be required to pay the costs of any police protection provided by the city at the event, provided that no alcohol shall be allowed, sold or provided at the event and no admission fee is charged.

VIII. - STANDARDS FOR ISSUANCE OF PERMIT.

(a)The chief of police shall issue a permit upon the approval of the city commission, if it appears that:

(1)The conduct of the event will not interrupt substantially the safe and orderly movement of other pedestrian or vehicular traffic in or contiguous to the route or location of the event.

(2)The concentration of persons, animals, and/or vehicles at the event will not interfere unduly with proper fire and police protection of, or ambulance service to, areas contiguous to the event area or other areas of the city.

(3)Adequate sanitation and other required health facilities are, or will be available, in or adjacent to the event area.

(4)There are sufficient parking places near to the site of the event to accommodate the approximate number of vehicles reasonably expected to be driven to the event.

(5)The applicant has secured police protection, if required.

(6) If the event is a parade, such parade is not to be held for the primary purpose of advertising any product, goods, or event, which is primarily for private profit, and the event itself is not primarily for profit; provided, however, the prohibition against advertising any product, goods, or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the conduct of the event.

(7) No special event permit application for the same time and location has been received which has been or will be granted.

(8) No special event permit application for the same time, but in another location, has been received which has been or will be granted where the police resources required for that prior special event is so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property.

(9) No event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property.

(b) No permit shall be granted which allows for the erection or placement of any structure, whether permanent or temporary, on a city street, sidewalk, or right-of-way unless advance approval for the erection or placement of said structure has been obtained from the city commission.

IX. - ALTERNATIVE PERMIT.

If the city commission denies an application for a permit they may, in the interest of traffic control and public safety, authorize the conduct of the event on a date, at a time, over a route, or in a location different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the chief of police, file a written notice of acceptance with the city commission. An alternate permit shall conform to the requirements of, and shall have the effect of, a permit under this chapter.

X. - CONTENTS OF PERMIT.

Each permit shall state the following information:

- (1) Nature of the event.
- (2) Date of the event.
- (3) Starting time and termination time of the event.
- (4) The location of the event or the portions of the streets, parks or other public facilities to be traversed or occupied by the event.
- (5) The approximately number of persons, animals and/or motor vehicles that will participate in the event.
- (6) The approximate number of spectators who will be present at or near the event.
- (7) Such other restrictions as the chief of police shall find necessary or appropriate.

XI. - DUTIES OF PERMITTEE.

- (a) A permittee hereunder shall comply with all permit directions and conditions, and with all applicable laws and ordinances.
- (b) The event chairperson or other person heading or leading such event shall carry the permit upon his person during the conduct of the event and shall display the permit upon demand to any Police Officer of the City of Marianna.
- (c) A permittee hereunder shall clean the public assembly area, including all closed streets, sidewalks, rights of way, hardscape and landscape areas, within 24 hours of the end of the event, unless such time period is modified by the director of public works. Cleaning shall be conducted in accordance with the city's guidelines.
- (d) The permittee shall not dump or allow the dumping of grease from vendor carts or other food service equipment on any street, sidewalk, right-of-way, streetscape, landscape area, or park grounds.
- (e) If a public feeding is involved, porta potties or like accommodations must be provided by the applicant and removed within 24 hours after the event. The number of units shall comply with city guidelines.

XII - PUBLIC CONDUCT DURING ASSEMBLIES.

- (a) Interference. No person shall unreasonably hamper, obstruct, impede, or interfere with any duly licensed event, or with any person, vehicle, or animal participating or used in such event.

(b)Driving through parades. No driver of any vehicle, unless specifically permitted by an officer of the Marianna Police Department or assisting law enforcement agency, shall drive between the vehicles of persons comprising a duly licensed parade, when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c)Parking on parade route or in area near event. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade or an area needed for the safe and efficient flow of traffic to or from an event. The chief of police shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

XIII. - REVOCATION OF PERMIT.

The chief of police or designee shall have the authority to revoke a permit issued hereunder instantly upon violation of any one or more of the conditions or standards for issuance as herein set forth or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the event would have an immediate and adverse effect upon the welfare and safety of persons or property.

XIV - UNLAWFUL DISCRIMINATION PROHIBITED.

It shall be unlawful for any permittee, or any agent or employee of the permittee, either directly or indirectly:

(1)To unlawfully discriminate against any natural person by refusing, withholding, or denying to such person any of the services, advantages, facilities, or privileges offered or available to any other person attending the event, or by setting different rates or charges therefore, or by placing or attempting to place any such natural person in a separate and segregated section or area at the event.

(2)To publish, circulate, display, post, or mail any written or printed communication or notice to the effect that any of the services, advantages, facilities, or privileges of the event will be refused, withheld, or denied to any natural person on account of the person's race, color, religion, national origin, ancestry, or sex, or that the person's attendance and presence at the event is unwelcome or objectionable, or that the person will be prohibited from mingling with other persons at the event because of the person's race, color, religion, national original, ancestry, or sex.

(3)To aid, abet, incite, or coerce the doing of any act declared herein to be unlawful, or to prevent or attempt to prevent any person from complying with the provisions of this chapter.

XV. - INDEMNIFICATION AND INSURANCE.

(a)Indemnification. The applicant and any other persons, organizations, firms or corporations on whose behalf the application is made, by filing a permit application shall represent, stipulate, contract, and agree that they will jointly and severally indemnify and hold the city harmless against liability, including court costs and attorney's fees, and attorney's fees on appeal, for any and all claims for damage to property, or injury to, or death of persons arising out of or resulting from the issuance of the permit or the conduct of the event or any of its participants.

(b)Insurance. The applicant shall furnish proof of insurance prepaid certificate of insurance for comprehensive premise liability on public property in a single limit sum of \$1,000,000.00, which by its terms designate the city an insured. The city shall place any request to waive insurance on the agenda at the next meeting of the city commission. The city commission shall set forth its reasons for the denying any waiver of any insurance requirements.

(c)Waiver of insurance requirement; appeal. The insurance requirement shall be waived by the city if the activity proposed by the applicant involves (1) expressive speech protected by the First Amendment to the United States Constitution, (2) will occur in a public forum, (3) does not include liability of property damage risk factors beyond those typically associated with the ordinary public use of the property, (4) the insurance requirement would be so financially burdensome that it would preclude the applicant from exercising First Amendment rights, and (5) adequate alternate channels of expression are not available. An applicant wishing to appeal the decision of the city may file a request for immediate judicial review with a court having jurisdiction thereof.

XVI. - BLOCK PARTY.

The chief of police may issue a block party permit for a neighborhood block party when all of the following conditions are met:

(1)A written request for a block party permit is received by the chief of police not less than 14 calendar days prior to the event;

- (2)The event is closed to the general public;
- (3)No commercial activity of any kind is to be conducted on the public street, sidewalk, or other right-of-way while the block party is in progress;
- (4)No sound amplification equipment or devices are to be used without a separate permit issued by the city commission;
- (5)No admission fee is charged or solicited;
- (6)No alcohol is permitted, served, or consumed on the street, sidewalk or other right-of-way;
- (7)The street is classified as a local street by the city, the closing of which would not be detrimental to the safety of vehicular and/or pedestrian movement as determined by the chief of police;
- (8)The anticipated attendance of the block party is not more than 50 people.

XVII. - PENALTIES.

- (a)It shall be unlawful for any person to stage, present, or conduct any event or block party without first having obtained permits thereof as herein provided.
- (b)It shall be unlawful for any person knowingly to participate in an event or block party for which permits have not been granted.
- (c)It shall be unlawful for any person in charge of or responsible for the conduct of a duly licensed event or block party knowingly to fail to comply with any condition of a permit.
- (d) Except as otherwise provided by the Municipal Code of the City, a person convicted of a violation of any of the above offenses shall be punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days or by both such fine and imprisonment in the discretion of the court. Unless stated otherwise, each day that a violation continues shall constitute a separate offense.

XVIII - Disturbing the peace offenses.

- (a)Disobeying orders of police. It shall be unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a police officer.
- (b)Throwing trash or debris on public properties. It shall be unlawful to throw or deposit any trash, paper, plastic, can goods, debris, or other substances on the

public properties in the city such as sidewalks, streets, parks, alleys, and the adjacent grounds thereto.

(c)Open fires. It shall be unlawful for any person to start or set or participate in or to support the continuance of any trash fire or to burn paper, grass, trash, discarded wood, including driftwood or other debris, where such fire is not protected by proper furnace or incinerator within the city limits.

XX. DIVISIBILITY.

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Ordinance shall continue in full force and effect.

SECTION XXI. EFFECTIVE DATE.

Upon passage by the members of the City Commission, this Ordinance shall take effect immediately.

SECTION XXII. INCORPORATION IN THE CODE OF ORDINANCES.

This ordinance shall be incorporated into the appropriate section of the Code of Ordinance for the City of Marianna, Florida. metal

THIS ORDINANCE shall be effective immediately upon passage.

PASSED by the City Commission of the City of Marianna, Florida, in special session on the _____ day of June, 2022.

CITY OF MARIANNA, FLORIDA

BY: _____

MAYOR

ATTEST: _____

Kimberly Applewhite, CLERK