

**ORDINANCE NO. 259**

**AN ORDINANCE TO REGULATE THE CONDUCT OF OUTDOOR EVENTS WITHIN THE CITY OF PELICAN BAY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND NAMING AN EFFECTIVE DATE.**

**WHEREAS**, the citizens of Pelican Bay often engage in outdoor events on City-owned property and private property, including festivals, parades, and neighborhood parties; and

**WHEREAS**, it is recognized that these outdoor events enhance the Pelican Bay lifestyle and provide benefits to citizens and visitors that are not normally provided as part of governmental services; and

**WHEREAS**, it is also recognized that events in neighborhoods provide a venue for neighbors to get to know one another and helps build strong and safer neighborhoods throughout our City; and

**WHEREAS**, outdoor events offered to the general public often attract a large gathering of people, which may cause parking, traffic and crowd management concerns and the need to involve City services to address public health and safety conditions; and

**WHEREAS**, outdoor events and parades require careful and effective planning and coordination to provide necessary public health, safety and welfare services for the participants and attendees in order to hold enjoyable, successful events and avoid undue disruption of ongoing business, recreational, social or other endeavors in the community; and

**WHEREAS**, the intent of the following regulations is to provide a coordinated and comprehensive process for the regulation of outdoor events on public or private property between the City of Pelican Bay and the event in order to ensure the health and safety of the participants, spectators and attendees; and

**WHEREAS**, it is also the intent of the City Council to protect the rights of its citizens to engage in protected free speech expression activities with the least restrictive and reasonable time, place and manner regulations of those activities, while addressing the impacts upon public facilities and services and public health and safety; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELICAN BAY, TEXAS:**

**SECTION 1.**

**ARTICLE I. OUTDOOR EVENTS**

**GENERAL PROVISIONS**

**Scope**

This Article is intended to be the framework within which all outdoor events held in the City are approved and regulated. This Article shall apply to all outdoor events, as defined herein, located within the City, regardless of whether the events are located on private or public property. This Article does not apply to events that are held exclusively indoors. Neighborhood events and neighborhood parades, as defined herein, will be governed by the Neighborhood Activities Committee and may be subject to the Neighborhood Events and Parade Permit Process.

**Purpose and Intent**

- (a) The City recognizes the need to encourage and promote events for the greater good, cultural diversity, and promotion of the City.
- (b) The City finds that there are an increased number of demands upon City resources and infrastructure from applications to hold outdoor events in the City streets, sidewalks and parks and for large outdoor events on private property. In order to conserve and allocate City resources and to adequately protect the public safety of the event participants, neighboring property owners, residents and businesses, it is necessary to regulate the use of the City's parks, streets, and public areas by those desiring to hold outdoor events on public property and to regulate large outdoor events on private property.
- (c) The intent of this Article is to ensure that the City will have adequate advance notice of outdoor events and the ability to plan and allocate the City services that will be needed while recouping the City's costs associated with outdoor events, such as personnel, equipment, utilities, maintenance and administrative costs.

**Responsible City Department**

The City Secretary or His/Her designee shall be responsible for overseeing the issuance of all permits for Special Events, First Amendment Events, Parades, Neighborhood Events, Neighborhood Parades and events within the City. Unless otherwise provided, the Applicant shall submit all information related to an event to the City Secretary. The Outdoor Events Manager, as designated by the City Council, shall be responsible for processing the application, issuing the permit, and assuring compliance with the requirements of this Article.

## **Definitions**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Annual Permit* means the written authorization from the City allowing an Applicant to hold a series of planned events for the next calendar year in the defined area and in neighborhoods.

*Appeals Hearing* as described in this article means an appeal directly to the City Council.

*Applicant* means the Person who has filed a written application for a Special Event, Parade, First Amendment Event, Neighborhood Event or Neighborhood Parade permit that is responsible for conducting the event and the responsible organization, corporation or other group on whose behalf the individual is requesting the permit.

*Block* means one side of a rectangular area surrounded by streets and usually containing buildings, measured from corner to corner.

*Chief of Police* means the individual designated to that position by the City Council of the City of Pelican Bay, Texas together with all Supervisors and such other individuals as may be designated by the Chief of Police.

*City* means the City of Pelican Bay, Texas.

*Emergency Services and Fire Safety Plan* means a plan submitted by the Applicant setting forth its plans for providing emergency services and evacuation, including fire prevention and fire suppression on Public and Private Property used for the event, and emergency medical services to performers, entertainers, exhibitors, speakers, attendees or other persons at the Event, as defined herein.

*Established Event* means an event with an attendance of 1,000 or more that has been permitted for the past five consecutive years.

*Established Neighborhood Event* means a Neighborhood Event sponsored by a neighborhood association that has been held for two or more consecutive years at the same location.

*Established Neighborhood Parade* means a Neighborhood Parade sponsored by a neighborhood association that has been held for two or more consecutive years at the same location.

*Event* means a Special Event, First Amendment Event or Parade.

*Event Area* means the area or areas, not necessarily contiguous to each other, which are central to the Event and which are erected and/or utilized by the Applicant for the production of the Event, including, but not limited to, areas open to attendees, stages,

barricades, parked vehicles, booths, tents, or other temporary or permanent structures and including the area immediately surrounding those items or locations.

*Event Site Plan* means the scaled schematic drawing indicating the placement of stages, vendors, booths, seating, amplifiers, bleachers, tents, toilets, generators, propane tanks, barricades, signage, dumpsters and other information required by the Outdoor Events Manager.

*Fees* (where the term is not specified as being a particular type of fee) means the amount of money required to be paid to the City by an Applicant pursuant to this Article for the issuance of a permit in order for the City to recover the direct and indirect costs associated with the event.

*Fire Chief* means the individual designated by the City Council and confirmed to that position by the City Council of Pelican Bay, Texas; together with all Deputy Fire Chiefs and such other individuals as may be designated by the Fire Chief.

*First Amendment Activity* means all expressive and associative activity on public streets that is protected by the United States and Texas Constitutions, including speech, press, assembly, and the right to petition, but does not include commercial advertising.

*First Amendment Event* means an event where the sole or principal object is First Amendment Activity.

*First Amendment Event Permit* means the written authorization from the City allowing an Applicant to hold a First Amendment Event on public rights-of-way but does not include sidewalks.

*Gated Event* means an outdoor gathering that is gated, thereby closing a portion of Public Property to the public and excluding members of the public.

*Goods* mean food, drinks, wares, personal property, merchandise or any other similar item.

*Intersection*, for the purpose of a Parade, means the junction of any two streets within the Parade route, but shall not include any staging or disbanding area.

*National Night Out* means the annual nationwide community-police awareness event to promote neighborhood spirit and police-community partnerships to generate support for, and participation in, local anticrime programs.

*Neighborhood Activities Committee* means the necessary representatives from City staff as determined by the City Council, or at-large members from residents of the City of Pelican Bay as designated by the organization.

*Neighborhood Event* means outdoor gatherings or celebrations with less than 500 attendees at any one time on a residential street, that are sponsored by a Neighborhood Association or by persons living on the block that require the use, occupation or full or partial closure of a street, sidewalk or public right-of-way.

*Neighborhood Event Permit* means the written authorization from the City allowing an Applicant to hold the Neighborhood Event as defined herein.

*Neighborhood Parade* means a procession of less than 250 pedestrians, vehicles or animals or any combination thereof, traveling in unison along or upon a residential street, and organized, conducted and sponsored by a Neighborhood Association or by persons living on the block for the purposes of attracting the attention of the attendees and/or expressing or celebrating views or ideas by use of verbal, visual, literary or auditory means of communication.

*Neighborhood Parade Permit* means the written authorization from the City allowing an Applicant to hold the Neighborhood Parade as defined herein.

*Outdoor Events Manager* means the person designated by the City Council to implement, administer, and enforce this Article.

*Parade* means a procession of pedestrians, vehicles or animals or any combination thereof, traveling in unison along or upon a street, road, or highway, organized and conducted for the purposes of attracting the attention of the general public and/or expressing or celebrating views or ideas by use of verbal, visual, literary or auditory means of communication. Parade shall not mean a Neighborhood Parade, funeral procession or a procession of vehicles operated in compliance with ordinary traffic laws or a procession of pedestrians along or upon public sidewalks, public parks, or Private Property.

*Parade Permit* means the written authorization from the City allowing an Applicant to hold a Parade as defined herein.

*Parking Plan* means a written proposal for the operation and regulation of parking on Private and Public Property.

*Permit* means the written authorization from the City allowing an Applicant to hold an Event as defined herein or perform the function for which he/she filed an application.

*Person* means an individual, firm, partnership, corporation, limited liability company, joint venture, organization, contractor, subcontractor, affiliate, agent, representative, association or other legal entity of any kind, any lawful trustee, successor, assignee, transferee, heir or personal representative, but shall not mean the City.

*Police Services Plan* means a plan to provide traffic, crowd and parking control, public security and service calls, including not only the street or streets to be closed but any other streets or public areas in the close proximity that may be utilized for alternative routes or for parking of vehicles of persons attending the Event.

*Private Property* means all property that is located within the boundaries of the City, except for property that is owned by the City, Public Property, as defined herein, or by another governmental entity.

*Public Property* means any dedicated or undedicated public land, outdoor park and outdoor

recreational facilities, streets, highways, municipal parking lots, parkways or alleys, public spaces and rights-of-way within the City.

*Religious Institution* means private property utilized on a regular basis, but in no case less than a weekly basis, for conducting religious classes and/or worship services.

*Special Event* means a single temporary daily outdoor gathering or a temporary celebration or series of related consecutive outdoor daily gatherings or celebrations, sponsored by a Person that is expected to draw five hundred (500) or more attendees at any one time held on Public Property or Private Property that includes one or more of the following: 1) partial or full closure of a public street; 2) blocking or restricting access to Public Property; 3) blocking or restricting access to Private Property of others; 4) use of open flame, explosions or other potentially dangerous displays or actions as outlined in the City's Fire Code; 5) sale or distribution of merchandise, food, or beverages on Public Property or on Private Property; 6) erection of a tent on Public Property, or on Private Property; 7) installation of a stage, band shell, truck, trailer, van, portable building, booth, grandstand, or bleachers on Public Property or Private Property; 8) placement of portable toilets on Public Property or on Private Property; or 9) placement of temporary no-parking, directional, oversize or identification signs or banners in or over a public right-of-way, or on Private Property where otherwise prohibited by ordinance.

*Special Event Holiday* means any holiday proclaimed by the Mayor as a special community celebration.

*Special Event Permit* means the written authorization from the City allowing an Applicant to hold the Special Event as defined herein or perform the function for which he/she filed an application.

*Supplemental Services Fee* means actual costs incurred by the City to provide City services to the Event, to include the salaries of the responding police, fire and emergency officers and City employees, at the salary then in effect for each classification of each individual officer, for the amount of time actually spent in responding to or remaining at the Event; appropriate overhead; the actual costs of any medical treatment to injured officers or employees; and the cost of repairing any damaged City equipment or property.

*Traffic Control Plan* means a written proposal for the operation and regulation of traffic control devices used to facilitate vehicular and pedestrian traffic safely and efficiently through a temporary traffic control zone.

*Walks, Runs and Races* means their usual and customary usage and shall be treated as a Special Event unless otherwise stated in this Article.

### **Permit Required**

- (a) It shall be unlawful for any person to hold, sponsor or cause to be held an Event without first having obtained the applicable Permit from the City. All Events in public parks shall be subject to review of the Neighborhood Activities Committee.
- (b) This section shall apply to all aspects of permitting Events in the City.

- (1) No Permit shall be denied nor shall the Applicant be given less favorable treatment as to time, manner, or place based upon race, color, creed, religion, gender, domestic relationship status, parental status, sexual orientation, transgender, gender identity or gender expression, national origin, or political affiliation of the Applicant and/or the participants of the event.
  - (2) No Permit shall be denied, nor shall the Applicant be given less favorable treatment as to time, manner, or place based upon the message of the event, nor based on the identity or associational relationships of the Applicant and/or participants.
  - (3) No Permit shall be denied nor shall the Applicant be given less favorable treatment as to time, manner, or place based upon any assumption or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event, provided that reasonable accommodation as to time, manner, and place may be required in order for the City to provide the resources necessary for police, fire and emergency services protection.
- (c) No Permit shall be issued until a completed application, together with any additional information requested, is received by the Outdoor Events Manager. The application must be in compliance with the regulations and requirements of this Article.
- (d) The closure of any rights-of-way may require a street closure permit from the City.

### **Exceptions**

The provisions of this Article do not apply to:

- (a) An Event conducted entirely on the property of a Religious Institution, educational institution, college or university campus. City streets or parking lots for multi-tenant buildings, regardless of location, shall not be considered part of a Religious Institution, educational institution, college or university campus;
- (b) Property owned or controlled by the City subject to a contract, lease or management/operating agreement with a private party where the agreement addresses outdoor events on the property;
- (c) Events conducted entirely on property containing an occupied private residence;
- (d) Funeral processions;
- (e) Sports facilities located on City property (including but not limited to ball fields, golf courses, tennis courts, swimming pools);
- (f) House moving, demolition and construction activities;
- (g) An activity conducted that is held in compliance with the zoning of the property and in accordance with its Certificate of Occupancy and if applicable, the City Council has approved the partial or full closure of a street, road or highway;
- (h) Events held for National Night Out;
- (i) Neighborhood tours, such as home or garden tours;
- (j) Special Event Holidays;
- (k) First Amendment Activity conducted entirely on sidewalks, in public parks, or on Private Property; or
- (l) Events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental

entity other than the City, if the Event does not require the closing or rerouting of a public street, the entity employs certified peace officers to provide security for the Event, and the entity adopts, and provides to the City, a written plan addressing emergency services, crowd, traffic and parking control.

### **Rules and Regulations**

Additional Event operating guidelines, policies and procedures may be developed and adopted administratively by the City Council, which may include but not be limited to, processes, cost recovery for public safety, sanitation and transportation personnel, resources, surety and insurance requirements. Such rules and regulations shall be based on due regard for public health, safety and welfare of citizens and event attendees.

### **Fees**

- (a) Fees for Permits shall be adopted by the City Council. No Permit fees shall be charged for a political march or rally conducted on public sidewalks or in City parks or plazas, or for other non-commercial exercise of rights guaranteed by the First Amendment of the United States and the Texas Constitution.
- (b) An Applicant shall be required to pay all fees for permits and licenses required by other City ordinances to conduct specific activities in conjunction with or as part of an Event.

### **Timeframes**

Where a timeframe or deadline established in this Article results in an item being due on a weekend, holiday or a day the City is closed for business, the item shall be due on the business day immediately following said weekend, holiday or closed business day.

## **SPECIAL EVENTS AND PARADES**

### **Events Calendar**

- (a) The City Secretary may create an Events Calendar for each fiscal year beginning in October for the purpose of setting the City's calendar for upcoming Special Events and Parades in the City.
- (b) A written notice of intent to hold a Special Event or Parade shall be submitted to the City Secretary to be placed on the City's yearly Events Calendar and forwarded to the designated Outdoor Events Manager no earlier than one hundred eighty (180) days prior to a Special Event or Parade. The City Council, at its discretion, may reduce the time frame required for an Applicant to submit a written notice, but not less than sixty (60) days before the date of the proposed Special Event or Parade.
- (c) The City Secretary and/or the Outdoor Events Manager shall deny the application if the Applicant fails to submit a written notice of intent to hold a Special Event or Parade to be placed on the Events Calendar as required by this ordinance.
- (d) First Amendment Events shall be exempt from this Section.



### **Pre-Event Meeting**

- (a) The Outdoor Events Manager shall be responsible for establishing the dates, times and location of the Pre-Event meeting and notifying the Applicants of the meetings.
- (b) The Pre-Event Meeting shall be for the purpose of reviewing the application and all required permits for compliance with this Article and any applicable policies approved by the City Council.
- (c) No Pre-Event Meeting shall be scheduled until a complete application is received by the Outdoor Events Manager.
- (d) All Applicants requesting a Special Event or Parade Permit must attend a Pre-Event Meeting no later than sixty (60) days before the date of Event to review the application. Outdoor Events Manager may reduce the time-required for the meeting.
- (e) Failure of the Applicant to attend the scheduled Pre-Event Meeting shall be grounds for denial of the Permit.
- (f) The Outdoor Events Manager may recommend denying the application if the Applicant is unwilling or unable to comply with all the requirements of the Ordinance.
- (g) First Amendment Event applicants are not required to attend a Pre-Event Meeting.

### **Special Event Permit Process**

#### **(a) Permit Required**

It shall be unlawful for any person to hold, sponsor or cause to be held a Special Event without first having obtained a Special Event or Parade Permit from the City Secretary.

#### **(b) Mandatory Requirements for the Issuance of a Special Event Permit**

Compliance with the following shall be required before the City Secretary may issue a permit:

- (1) Timely written request/notice of Event;
- (2) Attendance by the Applicant at a timely Pre-Event Meeting;
- (3) Submission of a completed application no later than sixty (60) days prior to a Special Event;
- (4) Payment of all application fees at the time of submission of the completed application;
- (5) Payment of all permitting fees no later than sixty (60) days prior to the Event;
- (6) Submission of all required plans;
- (7) Execution of a user agreement; and
- (8) Submission of all insurance and other requirements under this Article.

#### **(c) Application Process**

- (1) A person seeking to hold a Special Event shall apply for a Special Event

Permit by filing with the City Secretary a written application upon a form provided by the City. Each application must be accompanied by a nonrefundable fee as adopted by the City Council. The amount paid for the application fee shall be deducted from the amount required to be paid for the permitting fee if the event is approved.

- (2) An application must be filed no less than sixty (60) days before the date on which the proposed Special Event shall occur.
- (3) An application must contain at a minimum the following information:
  - a. The name, address, and twenty-four-hour telephone number of the person seeking to conduct the Special Event and who will be responsible for its conduct;
  - b. Estimated projected attendance affidavit;
  - c. Execution of user agreement;
  - d. If the Special Event is to be held for, on the behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and the name and address of the authorized responsible representatives of the organization;
  - e. A description of the Special Event, including any historical and promotional information, and requested dates and hours for operation of the event;
  - f. The dates and times when the Special Event is to be conducted, including set up and removal;
  - g. A noise mitigation plan that addresses noise impacts on surrounding businesses and residences if the Special Event includes amplified music;
  - h. Proof that the Applicant possesses or is able to obtain all licenses and permits required by the City or by state law for the Special Event;
  - i. The time and type of any entertainment and whether amplification will be used;
  - j. The time streets or sidewalks are to be blocked or closed;
  - k. The number of persons proposed or required to monitor or facilitate the event and provide spectator or participant control;
  - l. Event Site Plan indicating location of generators, tents, stages, booths, utility poles, stands, disbanding areas, signs, banners, vendors, portable toilets, orientation of amplifiers and loudspeakers, lighting, disability access, viewing stands, the name and location of streets or sidewalks to be blocked or closed and the location of any barricades and bleachers;
  - m. If any alcohol is going to be sold or distributed, the vendors and application for license for sale issued by the Texas Alcoholic Beverage Commission;
  - n. Emergency Services and Fire Safety Plans;
  - o. Police Service Plans;
  - p. Traffic Control Plan, Parking Plans and trash/recycling plans;
  - q. Compliance with all City plumbing and electrical code requirements, and sanitation and sewage disposal facilities requirements;

- r. Details of how the Applicant will clean up the area after the Special Event, if on Public Property;
  - s. Any additional information related to health and safety which the City finds reasonably necessary to make a determination as to whether a permit should be issued; and
- (4) After submission of the application, the Outdoor Events Manager may request supplemental information.

**Parade Permit Process**

**(a) Permit Required**

- (1) It shall be unlawful for any number of persons, delegations, or associations of persons, or for any company, circus, or group to conduct a Parade along or upon the streets of the City without first obtaining a permit. No permit shall be required for the use of the sidewalks of the City for any procession or parade.
- (2) It shall be unlawful for any number of persons, delegations, or associations of persons, or for any company, circus, or group to conduct a Parade upon any median, median strip or traffic island designed for the purpose of separating or directing vehicular traffic.
- (3) Only one Parade shall be allowed on the same calendar day.
- (4) No permit shall be issued if:
  - a. The Parade would conflict with previously planned Events or programs in the area scheduled for the same time and place;
  - b. The Parade would present an unreasonable danger to the health or safety of the Applicant, participants or citizens of the City;
  - c. The Parade would duly interfere with proper fire and police protection or ambulance service to the area contiguous to the parade route and alternative means of service acceptable to the City is not available; or
  - d. The Parade will place such a burden on the Police, Fire or Emergency Services that they would be unable to provide normal services to the remainder of the City.

**(b) Mandatory Requirements for the Issuance of a Parade Permit**

Compliance with the following shall be required before the Outdoor Events Manager may issue a permit:

- (1) Timely written request/notice;
- (2) Attendance by the Applicant at a timely Pre-Event Meeting;
- (3) Submission of a completed application no later than sixty (60) days prior to the Parade;
- (4) Payment of all application fees at the time of submission of the completed application;
- (5) Payment of all permitting fees no later than thirty (30) days prior to the Event;
- (6) Submission of all required plans;

- (7) Execution of a user agreement; and
- (8) Submission of all insurance and other requirements under this Article.

**(c) Application Process**

- (1) A person seeking a permit for a Parade shall file an application in writing on a form to be provided by the City Secretary. An application for a Parade Permit and all associated fees shall be filed with the City Secretary not less than sixty (60) calendar days before the date of the proposed Parade except for exempt Parades as outlined herein.
- (2) The contents of the application shall include:
  - a. The name, address and telephone number of the person seeking to conduct a Parade;
  - b. If the Parade is to be held for or by an organization, the name, address, telephone number of the headquarters of such organization and the names and numbers of authorized and responsible heads of the organization;
  - c. The name, address and all telephone numbers of the Applicant responsible for the conduct of the Parade;
  - d. Location, date and time of the Parade;
  - e. A written description of the proposed route to be traveled, the starting point and the termination point of the Parade, including a map illustrating the exact route of the Parade;
  - f. The estimated number of any riders, animals, animal drawn vehicles, floats, motor vehicles, motorized displays and marching units or organizations, such as bands, color guards, and drill teams that will constitute the Parade;
  - g. A statement as to whether the Parade will occupy all or only a portion of the width of the streets proposed to be used;
  - h. The streets that will be partially or completely closed during the Parade;
  - i. The location by streets of any assembly areas for the proposed Parade;
  - j. The time at which units of the Parade will arrive at the assembly area;
  - k. Event Site Plan indicating location of generators, tents, vendors, portable toilets, amplifiers, viewing stands and bleachers, if any;
  - l. Emergency Services and Fire Safety and Traffic Control Plans;
  - m. The estimated attendance at the Event;
  - n. Details of how the Applicant will clean up the area after the Parade, if on Public Property;
  - o. Any additional information related to health and safety which the Outdoor Events Manager finds reasonably necessary to make a determination as to whether a permit should be issued; and

**(d) Issuance of Parade Permit**

- (1) The place, duration and manner of use of the public streets and other public ways and places for Parades shall be subordinate to the public safety, comfort and convenience, the maintenance of order and the avoidance of congestion. The Outdoor Events Manager shall issue a permit upon finding:
  - a. The conduct of the Parade will not interfere with the safe and orderly movement of traffic near the Parade route; or
  - b. The Parade is scheduled to move from its point of origin to its point of termination without unreasonable delays; or
  - c. The conduct of the Parade is not likely to cause injury to persons or property, to result in or to provoke disorderly conduct, riot or create a disturbance; or
  - d. The conduct of such Parade will not interfere with the movement of fire-fighting equipment or fire protection activities; or
  - e. The conduct of such Parade will not require the diversion of a number of police officers to properly police the line of movement and areas near the Parade so as to prevent normal police protection to other areas of the City; or
  - f. The conduct of the Parade will not require the diversion of a number of ambulances as to prevent normal ambulance service to other portions of the City; or
  - g. The movement of the Parade will not conflict in time and location with another Parade or Event for which a permit has been granted.

**City Parades**

Parades organized, conducted, and supervised by the governmental entity on Public and Private roadways are exempt from this section.

**FIRST AMENDMENT EVENTS**

Permit Process

**(a) Permit Required**

- (1) An application for a First Amendment Event shall be filed with the City Secretary not more than sixty (60) days before the proposed event.
- (2) If an organization plans a First Amendment Event within thirty (30) calendar days of the proposed event, an application for a First Amendment Event Permit shall be filed with the City Secretary within three (3) calendar days of the date on which the event begins but not less than two (2) calendar days before the proposed event. The Applicant shall meet with the Police and Fire Departments prior to the First Amendment Event.
- (3) The Outdoor Events Manager may issue a First Amendment Event Permit for an application filed less than thirty (30) calendar days provided there is adequate time for the City to process the application and to assure that there are adequate traffic, health and safety measures in place for the safe and

orderly movement of the event participants and traffic near the route.

## **PUBLIC PARK EVENTS**

Public Park Events shall be referred to the Neighborhood Activities Committee.

## **GENERAL PROVISIONS FOR SPECIAL EVENTS, PARADES AND FIRST AMENDMENT EVENTS**

### **Additional Permits Required**

#### **(a) Portable restrooms**

- (1) All Events that provide portable restrooms must indicate on the Special Event or Parade Site Plan the exact location where the portable restroom(s) shall be placed.
- (2) If the portable restrooms are not placed at the location designated on the Event Site Plan, the Outdoor Events Manager or her/his designee shall give the Applicant oral or written notice to move the portable restroom(s) to the proper location. The Applicant must have the portable restroom(s) moved immediately, but in no case later than four (4) hours after notice. Should the Applicant fail to meet this requirement, the Applicant shall be subject to the penalties set forth in this Article.
- (3) The Event Site Plan shall state the time that the portable restroom(s) shall be removed. In the event that the portable restrooms are not removed by the time set forth in Events Plan, the Applicant shall be subject to the penalties set forth in this Article. Where the Applicant provides evidence of a good faith effort to have the portable restroom owner remove the portable restrooms in a timely manner, the City shall not subject the Applicant to the penalties, but shall instead provide written notice to the portable restroom owner requiring removal of the portable restrooms within twenty-four (24) hours of receiving the City's written notice. Should the owner fail to meet this requirement, the owner shall be subject to the penalties set forth in this Article.
- (4) If portable restrooms are placed on public property for an Event that is not permitted, the Outdoor Events Manager shall require the owner of the portable restrooms to remove the portable restrooms within twenty-four (24) hours of receiving the written notice. Should the owner fail to meet this requirement, the owner shall be subject to the penalties set forth in this Article.
- (5) The provisions of this subsection shall not apply to Events held entirely on private property, providing placement and use of the portable restrooms are not affecting adjacent property owners or tenants and it meets City requirements.

#### **(b) Alcohol Permit**

No alcohol may be served and/or sold at any Event unless the Applicant receives an alcohol permit as required by the Texas Alcoholic Beverage Commission. Permits must be posted and visible to the public.

#### **(c) Food Permit**

It will be responsibility of the Applicant to contact the appropriate Consumer

Health Division, to obtain necessary permits and information on proper dispensing and handling procedures for any food that is being provided or served at the Event.

(d) **Barricades**

Each barricade must be staffed at all times during the Event with at least one person at least eighteen (18) years of age who is wearing a reflective safety vest.

(e) **Recycling**

Recycling at Events is strongly encouraged, but is not mandatory.

### **Projected Attendance Estimates**

For purposes of this Article, attendance estimates by the Applicant shall be accompanied by an affidavit stating the basis of the estimate. Each estimate shall be based upon all the relevant factors known at the time, including, without limitation, past attendance at similar functions having the same and similar performers, both in the City and comparable communities, the price of admission, if applicable, and the extent of advertising and promotion planned. The City may accept the Applicant's affidavit if it appears to be based on realistic and appropriate information. If the City rejects the attendance estimates, the City shall substitute a reasonably determined estimate for the Applicant and the Applicant shall be responsible for all attendant costs and requirements associated with the revised estimate. If, for unforeseen reasons, an estimate did not in fact reflect the actual and necessary resources for the Event, the City may seek cost recovery from the Applicant as determined by the City.

### **Emergency Services and Fire Safety, Traffic Control and Parking Plans**

(a) **Plans**

- 1) The Applicant for any Special Event, First Amendment Event or Parade is required to provide an Emergency Services and Fire Safety Plan, Police Services Plan, Traffic Control Plan, as defined, for the Event, and shall be required to provide and pay for firefighter, emergency medical technician, emergency medical personnel and/or ambulance service(s) for such emergency medical and fire fighting services. The contents of the Emergency Services and Fire Safety Plan, Police Services Plan, and Traffic Control Plan shall be determined by the anticipated number of attendees at the Event.
- 2) Applicants shall submit their Plans to the Outdoor Events Manager prior to the Applicant's scheduled Pre-Event Meeting. The Emergency Services Plan must comply with Fire Code and the Fire Department's street closure guidelines and maintain adequate fire lanes within each closure area.
- (3) The Traffic Control Plan shall provide traffic and parking controls for the Event including the street(s) or sidewalk(s) to be closed and all other streets, sidewalks or public areas in close proximity that may be utilized for alternative routes or for parking of vehicles of persons attending the Event. **NOTE: Only licensed peace officers or individuals holding a traffic control certification SHALL direct/manage traffic.**
- (4) The Outdoor Events Manager, in consultation with the City's Police, Fire and Public Works Departments shall be responsible for determining whether to approve, modify, or deny the respective plan.

- (5) If the Chief of Police or Fire Chief, or their designees, determine that an Event requires additional emergency provisions to ensure public safety, the Applicant will modify the submitted Police Services Plan and Emergency Services and Fire Safety Plan accordingly.

**(b) Compliance with the Emergency Services and Fire Safety Plan and Police Services Plan.**

- (1) If the Outdoor Events Manager, the Chief of Police or the Fire Chief, or their designees determine that the services being provided at the Event do not comply with the approved plans and should this determination be the Event's first violation of its approved plans, the Outdoor Events Manager shall contact the Applicant or her/his designee and shall provide her/him with one hour in which to bring the emergency services into full compliance with the approved plans. The Outdoor Events Manager, if approved by the Chief of Police or the Fire Chief, or their designees, may allow additional time for compliance provided health and safety is not compromised. As soon as possible after this contact, the Outdoor Events Manager shall prepare written detailed documentation of the name of the Event contact, the time of the conversation and the corrective action required of the Applicant.
- (2) If the Applicant does not comply in a timely manner, the City shall provide the necessary services and will include the full cost of providing these services in a Supplemental Services Fee.
- (3) If the violation is Event's second or greater violation of its approved plan, the City may provide the necessary services without giving the Applicant an opportunity to take corrective action, and the City will include the full cost of providing these services in a Supplemental Services Fee. As soon as possible after finding the violation, the Outdoor Events Manager shall prepare written detailed documentation of the nature of the violation and the corrective action taken by the City.
- (4) If the Chief of Police or the Fire Chief, or their designees, determine that the emergency services being provided at the Event are not sufficient, given the actual circumstances of the Event, the Applicant or her/his designee shall be notified of such determination. The Chief of Police, or , the Fire Chief, or their designees, using their sole judgment regarding the immediacy of the need to have additional emergency services, shall determine whether to allow the Applicant to provide additional emergency services or whether to have the City provide additional emergency services. As soon as possible after the contact with the Applicant or her/his designee, the Chief of Police or the Fire Chief, or their designees, shall prepare written detailed documentation of the name of the Event contact, the time of the conversation, the findings of the Chief of Police or the Fire Chief, or their designees regarding the need for additional emergency services, the corrective action required, and who will provide the corrective action. This written documentation shall be provided to the Outdoor Events Manager within five (5) business days after the conclusion of the Event. Where the City provides the additional emergency services, the City will include the full cost of providing these services in a Supplemental Services Fee.
- (5) Should the violator or Applicant not comply in a timely manner with the corrective action plan required by the fire inspector, a stop work or stop operating order shall be given to the violator and Applicant or her/his



designee. The stop work or stop operating order shall stay in effect until the violator or Applicant comes into full compliance.

**(c) The Emergency Services and Fire Safety Plan and Police Services Plan for Events with 1,000 or Greater Anticipated Attendees**

- (1) Pursuant to Homeland Security, a detailed site plan indicating proposed vehicle ingress and egress, medical treatment areas, public areas including fences and gates, all temporary structures, management offices, cooking areas, locations of all fuels that will be used and/or stored, including without limitation gas, and whether pyrotechnics (if allowed) or other special effects are planned.
- (2) The staffing plan for emergency medical personnel and Fire Inspectors, to include the number of each that the Applicant plans to have at the Event.

**Gating and Fencing of Events**

No Event, except Gated Events located in a City park shall be fenced with perimeter fencing or gated. No fencing shall be allowed on any street or sidewalk. Fencing of VIP areas, private property and at the start and finish lines during Walks, Runs and Races shall be allowed, but the square footage of the fenced area shall be subject to occupancy loads as determined by the Fire Chief and shall be limited to ten (10) percent of the Event Area. The percentage of fenced area may be increased based on the size and location of the Event with the approval of the Director of Public Events after consultation with the Outdoor Events Manger, the Chief of Police and the Fire Chief.

**Prohibited Conduct During Events**

- (a) For all Events, it shall be unlawful for any person to do any of the following acts, or to permit a minor child in her/his custody to do any of the following acts in the Event Area:
  - (1) Ride, drive or operate golf carts, bicycles, motorcycles, mopeds or any other motor vehicles, or ride skateboards or skates, unless part of the Event. Bicycles, skateboards and mopeds may be carried into or walked through the Event Area. At no time will any Event approved vehicle, golf cart, forklift or other motor vehicle be driven on City sidewalks.  
This provision shall not apply to emergency medical personnel, officials or employees of the City acting in their official capacity, vendors restocking their merchandise, vendors providing sanitation services for the Event or to the Event workers.
  - (2) Bring in, carry, or in any way possess, play or operate any bull horns, radio, musical instrument or similar device which is producing or reproducing sound in such a manner as to be plainly audible to other persons in the Event Area, other than the operator of the device. This provision shall not apply to persons performing in the Event. All radios and musical devices with earphones are permitted.
  - (3) Bring in, carry, or in any way possess glass bottles, glass jars or glass containers of any kind, unless such glass container in a vial is required to hold medication needed and utilized by an Event participant where the

medication is customarily stored in a glass vial or unless specifically authorized by the Outdoor Events Manager for authorized Event vendors.

- (4) Carry or possess spray paint cans unless specifically authorized in writing by the Outdoor Events Manager for authorized Event vendors.
- (5) Engage in the sale or distribution of Goods. This provision shall not apply to authorized Event vendors.
- (6) Engage in the act of performing unless the performer is an authorized Event vendor.
- (7) Engage in outdoor cooking in any area except an area designated for grilling by the City or an approved Event Site Plan. This provision shall not apply to authorized Event vendors.
- (8) Be in possession of any alcoholic beverage at an Event located on Public Property, unless the alcoholic beverage was purchased or otherwise obtained from an authorized vendor of the Event.
- (9) If the Applicant has previously advertised the prohibition of dogs or animals at the Event, no dogs or other animals shall be allowed in the Event Area. All dogs or other animals must be licensed and have current rabies vaccinations on their tags, remain on leash while in the Event Area and under voice control of their owners at all times. Any dog or animal exhibiting aggressive behavior must be removed immediately from the Event Area at the request of the Applicant, the Outdoor Events Manager or his/her designee. Owners shall be liable for damage or injury inflicted by their animals.

### **Retention of Permit**

The Applicant or his/her designee shall be present during the entire Event and shall produce the Permit upon demand during the Event, including set-up and break-down. The Applicant shall be responsible for providing the Outdoor Events Manager or any other City employee the Permit upon request and the contact number of the person carrying the Permit if other than the Applicant.

### **Security Deposit**

- (a) An Applicant for a Special Event or Parade shall pay a security deposit fee to ensure compliance with all permit requirements upon submission of the application. The deposit shall be used to recover any costs that are incurred by the City. The City has sole discretion over the determination of the condition of the site. Neighborhood Event, Neighborhood Parade or First Amendment Event Permits are exempted from this provision.
- (b) The holder of the Permit shall reimburse the City for additional direct costs in excess of the security deposit that are incurred by the City in providing services at the Event; direct costs include but are not limited to, the reasonable costs of setup, cleanup, electrical services, construction, and other related services beyond what the City would provide to the general public in the ordinary course of its daily operations that exceed the security deposit.
- (c) The deposit will be refunded in full by the City Secretary not later than thirty (30) calendar days after the Event if the site is left in as good or better condition than

before the Event. The City has the sole discretion regarding the determination of the condition of the site.

### **Supplemental Service Fees**

- (a) If a police officer is required to respond to an Event and while at the scene determines that there is a threat to public peace, health, safety or general welfare, the Applicant responsible for the Event shall be liable for Supplemental Service Fees.
- (b) If the City is required to respond to an Event due to lack of traffic control devices as established by the Traffic Control Plan or as required by the City's Police Department, the Applicant shall be responsible for all related costs. Such charge constitutes a debt of the responsible person and is collectible by the City in the same manner as in the case of an obligation under a contract.
- (c) The costs of a response shall be waived if the Applicant initiates a request for police response and cooperates with the police.
- (d) Costs imposed under this provision are due and payable in accordance with the user agreement as described in this Article.
- (e) The Applicant can appeal the costs by filing an appeal pursuant to the provisions of this Article. Failure of the Applicant to file an appeal shall constitute a waiver of the right to an appeal under this Article or to challenge the validity or amount of the costs imposed.

### **Tent Requirements**

Tents, canopies and membrane structures shall be regulated by the Outdoor Events Manager and must comply with current Fire Regulations and Code.

### **Use of City Logo or Name**

An Applicant may not use or allow its event to use the words "City of Pelican Bay," "The City of Pelican Bay" or the City's Logo or a combination thereof in any manner that would imply an official endorsement of the Event by the City without written authorization from the City Council.

### **User Agreement**

- (a) The Applicant shall enter into a user agreement with the City prior to the Event, in which the Applicant agrees to bear all costs of clean up and restoration of the Public Property upon the conclusion of the Event and to reimburse the City for costs related to any damage or use beyond normal wear and tear on the Public Property. The user agreement shall require the Applicant to provide full reimbursement to the City within sixty (60) calendar days of the conclusion of the permitted Event. The assessed reimbursement amount shall be subject to the procedures for appeal contained in this Article.
- (b) The user agreement shall include the following:
  - (1) Indemnification  
Applicant shall assume full responsibility and liability for and indemnifies,

defends and holds the City harmless against:

- a. All liability, claims for damages, and suits for or by reason of any injury to any person, including death, and damage to any property for every cause in any way connected with the holding of the Event, including the preparation, set-up, teardown and cleanup; and
- b. All expenses incurred by the City for public safety, sanitation and transportation personnel and resources required to preserve public order and protect public health, safety and welfare, together with any other expenses or costs that may be incurred by the City as a result of the Event. The Applicant shall indemnify the City against all charges, expenses and costs, including the City's legal department services incurred on account of or by reason of any such injuries, damages, liability, claims, suits or losses and all damages growing out of the same.

(2) Insurance

- a. When required by the City, an Applicant must provide to the Outdoor Events Manager, a Certificate of Commercial General Liability Insurance listing the City of Pelican Bay as an additional named insured in the amounts prescribed by the City Council or designee.
  - b. An Applicant for a permit to hold an Event where alcohol is to be sold must provide to the Outdoor Events Manager a Certificate of Insurance in the amount of \$1,000,000 as liquor liability insurance, in addition to the general liability insurance requirements.
  - c. Federal, state and local government agencies may submit a statement of self-insurance which shall be acceptable in place of insurance requirements of this Section
- (c) Execution of a user agreement shall be waived for First Amendment Events that do not involve the use of motor vehicles.

**APPROVAL, ISSUANCE, MODIFICATION, DENIAL OR REVOCATION OF A SPECIAL EVENT OR PARADE PERMIT**

**Approval**

- (a) Except as otherwise provided in this Article, the Outdoor Events Manager shall be charged with the responsibility and authority to determine whether a particular Applicant shall be granted a Permit in the time, manner and place proposed.
- (b) After reviewing the comments and/or decisions from all of the City officials, employees, departments and/or bureaus from whom this Article requires such feedback, the Outdoor Events Manager shall approve the Permit, deny the Permit, or approve the Event application with modifications or upon conditions, as set forth in this Article. If the application is approved, the Outdoor Events Manager, in consultation with the heads of affected departments, or their designees, shall impose restrictions or conditions as to time, manner and place, if the Outdoor Events Manager deems such restrictions are necessary. These modifications shall be made when the Outdoor Events Manager and the affected departments, based upon review

of the application, find compelling reasons related only to public safety, health, or the environment, or to scheduling conflicts with other permitted uses at the time or place requested.

- (c) After consideration of the application and other information as may be otherwise required, an Event application will be approved and a Permit issued if, upon review, the Outdoor Events Manager finds that:
- (1) The Applicant, where applicable, has participated in the Pre-Event Meeting as required by this Article;
  - (2) The Applicant has complied with all the requests of the Outdoor Events Manager and the Pre-Event Meeting;
  - (3) The Event will not substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic near the Event location or route;
  - (4) The Event will not require the diversion of a number of City fire protection or emergency medical services so as to interfere with the provision of these services to other areas of the City;
  - (5) The Event will not require the diversion of a number of Police Officers to properly police the Event location or line of movement and the adjacent areas so as to interfere with the normal protection of the City;
  - (6) There will be adequate sanitation and other required health facilities made available in or adjacent to the Event;
  - (7) The Applicant has submitted an Emergency Service and Fire Safety and Traffic Control Plan;
  - (8) The Applicant has acknowledged on the Event application that structures on sidewalks are prohibited;
  - (9) A plan detailing how the Applicant will prevent consumption of alcohol by minors and promote responsibility in consumption and sales. The plan shall include signage at the point of sale; approved alcohol retail awareness training or seller server certification provided to persons involved in the sales/distribution of alcoholic beverages; and designated driver program; and
  - (10) The Applicant has complied with any other special conditions related to health and safety imposed by the City or other authorized official, for issuance of the Permit.

### **Issuance of a Permit**

- (a) The City Secretary shall issue either a Permit or a denial of the Special Events or Parade application within five (5) calendar days of a completed application.
- (b) Advertising a Special Event or Parade prior to the permit being issued shall not entitle the Applicant to hold the Event without a valid Event permit. The Outdoor Events Manager shall not issue a Special Event Permit or Parade Permit based on prior advertising unless a valid Permit may be issued under this Article.
- (c) The Applicant must have the Permit, and all other required permits and approvals, if any, present at the Event during the entire duration of the Event, including but not limited to set-up, teardown and clean up. Failure to abide by this provision may result in the revocation of the event permit.

## **Modification or Denial of an Events Permit**

- (a) The Outdoor Events Manager may modify, deny or revoke a Special Event or Parade Permit when, due to the scope of the Event, and the number of police personnel required to provide protection and traffic control for the Event, and due to the need for police personnel elsewhere in the City, the Event would require the diversion of such a number of police personnel that it will be more likely than not that normal police protection elsewhere in the City cannot be provided continuously and safely for the duration of the Event. If the application for a Permit is denied by the Outdoor Events Manager, the denial shall state the reasons for the denial of the application. All notices required under this Section shall be in writing and sent by certified mail, return receipt requested, through the United States Postal Service.
- (b) The Outdoor Events Manager may deny a Special Event or Parade Permit for failure of the Applicant to comply with the requirements set forth in this Article. In no event shall a Permit be denied based nor shall the Applicant be given less favorable treatment as to time, manner, or place based upon race, color, creed, religion, gender, domestic relationship status, parental status, sexual orientation, transgender, gender identity or gender expression, national origin, or political affiliation of the Applicant and/or the participants of the event.
- (c) The Outdoor Events Manager may deny a Special Event or Parade Permit when by reason of disaster, public calamity, riot or other emergency, the Outdoor Events Manager, in consultation with the Police Chief and/or Fire Chief, determines that the health and safety of the public or property requires revocation or denial, provided that the Outdoor Events Manager shall not deny a Special Event or Parade based on the factors outlined above.
- (d) The Outdoor Events Manager shall deny a Permit if:
  - (1) An Applicant has an outstanding debt with the City, or if the Event is done on behalf of or in the name of a person, organization, corporation or other group that has an outstanding debt with the City, until such time as payment is received in full. This subsection shall not apply if the applicant's debt is currently in an appeal process or litigation.
  - (2) An Applicant has failed or is unwilling to comply with all the requirements of the Pre-Event Meeting;
  - (3) An Applicant has failed to complete payment of any sums required for a previously permitted Event, until such time as payment is received. In the alternative, the City Secretary may condition the granting of a new permit on the payment of amounts in arrears in connection with the previous Event. The City Secretary may not require the payment of arrears for previous Events unless the Outdoor Events Manager or her/his designee had mailed or delivered to the Applicant a demand for such payment within sixty (60) days after the ending date of such previous Event;
  - (4) An Applicant who caused significant damage to City streets, sidewalks, parks, and/or other City real or personal property and, at the time of submitting an application for a new Event, failed to adequately repair the damage or failed to pay a bill for restoration services in full, provided that the Outdoor Events Manager or his/her designee, mailed or delivered to the Applicant a demand for such repair or restoration fees within sixty (60) days after the ending date of such previous Event;

- (5) The Applicant has, in this City, violated a material condition and/or restriction of a Permit, or if the Applicant's conduct regarding the Event was in violation of law or local ordinance.
  - (6) It appears by competent evidence that the Applicant has made a material misrepresentation or given incorrect material information on the application. Prior to such denial or revocation, the Outdoor Events Manager shall notify the Applicant of the evidence and provide the Applicant with three (3) business days in which to rebut said evidence in writing;
  - (7) The Applicant fails to submit a complete application, including an acceptable Emergency Services and Fire Safety Plan and Traffic Control Plan;
  - (8) The Applicant fails to attend and participate in the scheduled Pre-Event meeting;
  - (9) The Applicant does not have all the necessary permits required to carry out the Event, or does not fulfill any or all of the other Event requirements, as established in this Article;
  - (10) The Applicant is unable or unwilling to provide any required insurance;
  - (11) The Applicant has failed to pay all application and permitting fees;
  - (12) The Applicant is unable or unwilling to pay any additional costs related to health and safety as may be required;
  - (13) The Applicant has failed to execute a user fee agreement;
  - (14) A prior application for a Permit for the same time and place has been received and the Permit has been or will be granted and the Applicant did not accept alternative dates, times and location offered by the City Council and/or City Secretary;
  - (15) The use of activity intended by the application would conflict with previously planned programs conducted by the City at the same time and place as determined by the Events Calendar;
  - (16) The Applicant fails to provide any additional information that has been requested by the Outdoor Events Manager; or
  - (17) At any time, the Event is being held for an unlawful purpose, and/or violates a federal, state, or local law or ordinance.
- (e) When the Outdoor Events Manager denies a Permit, he or she shall set forth in writing the reasons for such denial in as much detail as possible. When the Outdoor Events Manager modifies a Permit application, he or she shall, if requested by the Applicant, state in writing on the Permit the reasons for the modification in reasonable detail. A modification, denial or revocation based upon inadequate police resources shall state with specificity the reasons for the Outdoor Events Manager's opinion, giving as much detail as is possible. In denying the Permit, or in granting the Permit with modifications, the Outdoor Events Manager shall abide by the provisions of this Article. Where a Permit for an Event is denied or modified, the Outdoor Events Manager or her/his designee shall forward a copy of the written determination to the City Council.

**Sec. 20-436. Revocation of a Permit**

- (a) The Outdoor Events Manager may revoke a Special Event or Parade Permit if:

- (1) The Applicant violates the rules set forth in this Article after the Applicant has received the Permit;
  - (2) The Event poses an immediate threat to health or safety; or
  - (3) The Applicant has failed to obtain any other permit required by this Article, State law or the City Code.
- (b) The Outdoor Events Manager, in consultation with the Chief of Police or Fire Chief may deny or revoke a Special Event or Parade Permit when by reason of disaster, public calamity, riot or other emergency, it is determined that the safety of the public or property requires revocation or denial.

**APPEAL OF DENIAL OR REVOCATION OF A SPECIAL EVENT OR PARADE PERMIT**

**Appeal**

- (a) Applicant may appeal a denial or revocation of a Special Event or Parade Permit, by submitting in writing to the City Council no later than ten (10) days after notice of denial or revocation, a letter requesting an appeal of the decision. The appeal shall specifically state the grounds upon which it is asserted and why the determination should be modified or reversed.
- (b) The Applicant shall include in the appeal copies of the application for Permit, the written notice of determination of the Events Calendar Committee or the Outdoor Events Manager and any other information material to the determination.
- (c) The appeal shall be heard by the City Council during the first appropriate council meeting following the date on which the appeal was received. Notice of the appeal date shall be provided to the Applicant in writing.
- (d) The City Council may affirm, modify or reverse all or part of the decision of the Outdoor Events Manager being appealed. The decision of the City Council is final.

**NEIGHBORHOOD EVENTS AND NEIGHBORHOOD PARADES**

**Permit Process**

**(a) Permit Required**

- (1) It shall be unlawful for anyone to hold, sponsor or cause to be held a Neighborhood Event or Neighborhood Parade without first having obtained a Neighborhood Event or Neighborhood Parade Permit from the City Secretary.
- (2) All Neighborhood Events or Neighborhood Parades must be sponsored by a Neighborhood Association or by persons living on the block and endorsed by the Neighborhood Activities Committee.
- (3) A Neighborhood Parade must be located on a residential street and take no longer than two hours to complete.
- (4) Traffic movement will be the primary determining factor in the approval or denial of a Neighborhood Event or Neighborhood Parade. No interference with public safety vehicles will be permitted.



- (5) Any Neighborhood Event or Neighborhood Parade with an expected attendance of five hundred (500) or more at any one time shall be treated as a Special Event or Parade and must meet the requirements of a Special Event or Parade Permit.

**(b) Petition, Application and Notice Requirements**

**(1) Neighborhood Event**

- a. At least fifty percent (50%) + 1 of the residents on the street affected by the Neighborhood Event must sign a petition on the City's approved application form granting permission for the Neighborhood Event to be held. All petitions must be signed no earlier than sixty (60) days before the proposed Neighborhood Event and submitted to the City Secretary no later than fifteen (15) days prior to the proposed Neighborhood Event.
- b. A person seeking to hold a Neighborhood Event shall apply for a Neighborhood Event Permit by filing with the City Secretary a written application upon a form provided by the City. The application shall comply with the regulations for a Neighborhood Event Permit outlined in this Division.
- c. An application must be filed no later than fifteen (15) days before the date on which the proposed Neighborhood Event shall occur.

**(2) Established Neighborhood Event**

- a. Only Established Neighborhood Events shall be considered for an Annual Permit.
- b. A neighborhood association shall be allowed to submit an application to the City Secretary requesting an Annual Permit for all planned Established Neighborhood Events for the next calendar year.
- c. A person seeking an Annual Permit shall apply by filing with the City Secretary a written application upon a form provided by the City. The application shall comply with the regulations for a Neighborhood Event Permit outlined in this Division.
- d. At least fifty percent plus one (50% + 1) of the residents on the street(s) affected by the Established Neighborhood Events must sign a petition on the City's approved application form granting permission for the Established Neighborhood Events to be held. Petitions must be signed no earlier than sixty (60) days before the application for the Annual Permit is submitted to the City Secretary.

**(3) Neighborhood Parades**

- a. A person seeking to hold a Neighborhood Parade shall apply for a Neighborhood Parade Permit by filing with the City Secretary a written application upon a form provided by the City. The application shall comply with the regulations for a Neighborhood Parade Permit outlined in this Division.
- b. An application must be filed no later than fifteen (15) days before the date on which the proposed Neighborhood Parade shall occur.

- (4) Established Neighborhood Parade
- a. Only Established Neighborhood Parades shall be considered for an Annual Permit.
  - b. A neighborhood association shall be allowed to submit an application to the City Secretary requesting an Annual Permit for all planned Established Neighborhood Parades for the next calendar year.
  - c. A person seeking an Annual Permit shall apply by filing with the City Secretary a written application upon a form provided by the City. The application shall comply with the regulations for a Neighborhood Parade Permit outlined in this Division

**(c) Mandatory Requirements for the Issuance of a Neighborhood Event or Neighborhood Parade Permit.**

Compliance with the following shall be required before the City Secretary may issue a Neighborhood Event or Neighborhood Parade Permit:

- (1) Neighborhood Event Applications Applications must include the name, address and twenty-four (24) hour telephone number of at least one person belonging to the Neighborhood Association or living on the block where the Neighborhood Event is to be conducted who will serve as a liaison with the Outdoor Events Manager and the City's Police Department to address any problems during the Neighborhood Event. The telephone number must be answered at all times.
- (2) Neighborhood Parade Application Applications must include the following information:
- a. The name, address and twenty-four (24) hour telephone number of the Applicant seeking to conduct the Neighborhood Parade who will serve as a liaison with the Outdoor Events Manager and Police Department to address any problems during the Neighborhood Parade;
  - b. If the Neighborhood Parade is to be held for or by an organization, the name, address, telephone number of the headquarters of such organization and the names and numbers of authorized and responsible heads of the organization;
  - c. Location, date and time, including start and termination times requested for the Neighborhood Parade;
  - d. A written description of the proposed route to be traveled, the starting point and the termination point of the Neighborhood Parade, including a map illustrating the exact route of the Neighborhood Parade;
  - e. The estimated number of any riders, animals, animal drawn vehicles, floats, motor vehicles, motorized displays and marching units or organizations, such as bands, color guards, and drill teams that will constitute the Neighborhood Parade;
  - f. A statement as to whether the Neighborhood Parade will occupy all or only a portion of the width of the streets proposed to be used;

- g. A list of the streets that will be partially or completely closed during the Neighborhood Parade;
  - h. The location of any assembly areas by street names for the proposed Neighborhood Parade;
  - i. Details of how the Applicant will clean up any Public Property after the Neighborhood Parade; and
  - j. Any additional information related to health and safety which the Outdoor Events Manager finds reasonably necessary to make a determination as to whether a Neighborhood Parade Permit should be issued.
- (3) Applicants must sign a user agreement accepting responsibility for any costs for establishing detours, handling traffic direction, clean up or repair of public right-of-way used or damaged by the Neighborhood Event or Neighborhood Parade and holding the City, its officers and employees, whether elected or appointed, harmless from any and all liability arising from the street closure.
  - (4) The Outdoor Events Manager, in consultation with the Chief of Police and Fire Chief, or designees, shall review each application and determine the requirements for the safety and welfare of the participants and general public. After submission of the application, the Outdoor Events Manager may request supplemental information and may impose conditions on the Neighborhood Event or Neighborhood Parade Permit to ensure that the event complies with these rules and regulations or to address health and safety conditions. The Applicant shall be responsible for any additional costs incurred by the City to provide additional emergency services required for the safety and welfare of the participants and the general public at the Neighborhood Event or Neighborhood Parade. The Applicant shall be responsible for any Supplemental Services Fees.
  - (5) A certificate of insurance approved by the City shall be required for Neighborhood Parades that include motor vehicles and Neighborhood Events that place structures, such as bounce houses, stages or tents in the public right-of-way.
  - (6) It is the responsibility of the Applicant to apply for and receive any necessary alcohol permits from the Texas Alcohol Beverage Commission.

**Sec. 20-439. Neighborhood Event and Neighborhood Parade Regulations**

All Neighborhood Events and Neighborhood Parades must comply with the following regulations:

- (a) Neighborhood Events and Neighborhood Parades may be held any day of the week, but streets must be cleared and open to traffic no later than 11:00 p.m.
- (b) The Applicant must have the Neighborhood Event or Neighborhood Parade Permit, and all other required permits and approvals, if any, present at the Neighborhood Event or Neighborhood Parade during the entire duration of the event, including but not limited to set-up and clean up. Failure to abide by this provision may result in the revocation of the Neighborhood Event or Neighborhood Parade Permit.
- (c) Barricades. The portion of the public right-of-way to be used by the Neighborhood

Event shall be closed to vehicular traffic by an appropriate number of Type 1 barricades. All barricades must be supplied by the Applicant and the Applicant is responsible for putting barricades in place and removing them. Barricades must be staffed at all times with at least one person eighteen (18) years of age or older who is wearing a reflective safety vest. Once barricades are in place, no vehicle traffic is allowed beyond the barricades except for emergency vehicles. All barricades shall be removed within one-half (½) hour after the ending time of the event for which the street is closed. Barricades shall also be immediately removed upon request of the Outdoor Events Manager, any Police Officer, or employee of the City charged with enforcing this Article. Vehicles shall not be parked at the barricade locations so that access to the street is blocked. The Outdoor Events Manager, in consultation with the Chief of Police and Public Works, may approve an alternative plan for the use of barricades.

- (d) Unobstructed Roadway. An unobstructed roadway width of twelve (12) feet as required by the most current Fire Code must be maintained along the closed sections of the streets for Neighborhood Events. No structures, including tents, stages and bounce houses are allowed in the unobstructed roadway width detailed above or any sidewalk or parkway. Items such as chairs and tables are allowed.
- (e) No Neighborhood Event Permit shall be granted when the street closure would result in denying prompt access to an area or location for emergency vehicles.
- (f) No fire hydrants may be obstructed by Neighborhood Event activities. A three (3) foot clear space shall be maintained around the fire hydrant.
- (g) Applicants are responsible for collecting and disposing of all trash and cleaning up at the conclusion of the Neighborhood Event. If the clean-up is not to the satisfaction of the City, the clean-up will be performed by the City and the Applicant will be billed for the cost of the clean-up.
- (h) No admission fees may be charged for any Neighborhood Event or Neighborhood Parade, but requests for donations shall be permitted.
- (i) The Applicant shall be responsible for any significant damage to City streets, sidewalks, and/or other City real or personal property provided that the Outdoor Events Manager or his/her designee mailed or delivered to the Applicant a demand for such repair within sixty (60) days after the ending date of the Neighborhood Event.

**Approval, Issuance, Modification, Denial or Revocation of a Neighborhood Event or Neighborhood Parade Permit**

- (a) Except as otherwise provided in this Article, the Outdoor Events Manager shall be charged with the responsibility and authority to determine whether a particular Applicant shall be granted a Neighborhood Event or Neighborhood Parade Permit in the time, manner and place proposed.
- (b) After consideration of the application and other information as may be otherwise required, a Neighborhood Event or Neighborhood Parade Event application will be approved and a Neighborhood Event or Neighborhood Parade Permit issued if, upon review, the Outdoor Events Manager finds that the application meets the requirements of this Division.
- (c) The advertisement of a Neighborhood Event or Neighborhood Parade prior to the Neighborhood Event or Neighborhood Parade Permit being issued shall not entitle

the Applicant to hold the event without a valid Neighborhood Event or Neighborhood Parade Permit.

(d) The Outdoor Events Manager shall issue either a Neighborhood Event or Neighborhood Parade Permit or denial of the Neighborhood Event or Neighborhood Parade application within five (5) calendar days of a completed application.

(e) Denial of a Neighborhood Event or Neighborhood Parade Permit. The Outdoor Events Manager shall deny a Neighborhood Event or Neighborhood Parade application if:

- (1) An Applicant has failed or is unwilling to comply with all the requirements of this Division;
- (2) An Applicant who caused significant damage to City streets, sidewalks, parks, and/or other City real or personal property and, at the time of submitting an application for a new Neighborhood Event or Neighborhood Parade, failed to adequately repair the damage or failed to pay a bill for restoration services in full, provided that the Outdoor Events Manager or his/her designee, mailed or delivered to the Applicant a demand for such repair or restoration fees within sixty (60) days after the ending date of such previous Neighborhood Event or Neighborhood Parade;
- (3) The Applicant has violated a material condition and/or restriction of a Neighborhood Event or Neighborhood Parade Permit, or if the Applicant's conduct regarding the Neighborhood Event or Neighborhood Parade was in violation of law or local ordinance;
- (4) It appears by competent evidence that the Applicant has made a material misrepresentation or given incorrect material information on the application. Prior to such denial or revocation, the Outdoor Events Manager shall notify the Applicant of the evidence and provide the Applicant within three (3) business days in which to rebut said evidence in writing;
- (5) The Applicant is unable or unwilling to provide any required insurance;
- (6) The Applicant has failed to execute a user agreement;
- (7) The Applicant fails to provide any additional information that has been requested by the Outdoor Events Manager; or
- (8) At any time, the Neighborhood Event or Neighborhood Parade is being held for an unlawful purpose, and/or violates a federal, state, or local law or ordinance.

#### **Revocation of a Neighborhood Event or Neighborhood Parade Permit.**

The Outdoor Events Manager may revoke a Neighborhood Event or Neighborhood Parade Permit:

- (1) Due to reasons of disaster, public calamity, riot or other emergency;
- (2) The Applicant violates the rules set forth in this Article after he or she has received the Neighborhood Event or Neighborhood Parade Permit;
- (3) The Neighborhood Event or Neighborhood Parade poses an immediate threat to health or safety; or
- (4) The Applicant has failed to obtain any other permits required by this Article, State law or the City Code.

## **Appeal**

The Applicant for a Neighborhood Event or Neighborhood Parade Permit may appeal the decision of the Outdoor Events Manager to deny or revoke a permit no later than ten (10) days after written or electronic notice of denial or revocation by submitting in writing to the City Council of the Applicant's decision to appeal. The appeal shall specifically state the grounds upon which it is asserted and why the determination should be modified or reversed. The City Council may affirm, modify or reverse all or part of the decision of the Outdoor Events Manager being appealed. The decision of the City Council is final.

## **OFFENSES**

- (a) A person commits an offense if he/she commences or conducts an Event:
  - (1) Without a Permit;
  - (2) Knowingly makes a false statement in connection with an application; or
  - (3) In violation of any provision of a Permit, this Article, additional rules or regulations as promulgated by the City Council or any other City ordinance or applicable law.
- (b) A culpable mental state is not required for the commission of an offense under this Article.

## **PENALTIES**

- (a) A person who violates a provision of this Article or a requirement of a Permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continued.
- (b) Each offense is punishable by a fine not to exceed:
  - (1) \$2000 for a violation of a provision of this Article or a requirement of a Permit governing fire safety, zoning, or public safety, health, and sanitation, including dumping or refuse; or
  - (2) \$500 for all other violations of this Article or requirements of a Permit.

## **SECTION 2.**

That this ordinance shall be cumulative of all other ordinances of the City of Pelican Bay and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

## **SECTION 3.**

That all rights or remedies of the City of Pelican Bay, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all

pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 4.**

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 5.**

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

#### **SECTION 6.**

That the City Secretary of the City of Pelican Bay, Texas is hereby directed to publish this ordinance for two (2) days in the local newspaper of the City of Pelican Bay, Texas.

#### **SECTION 7.**

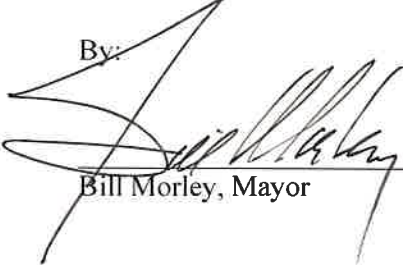
This ordinance shall take effect immediately, after adoption and publication, as required by law.

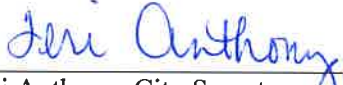
**AND SO IT IS ORDAINED.**

PASSED AND APPROVED on this 9 day of March 2020.

PASSED:   
AYES: 4  
NAYS: 0

**CITY OF PELICAN BAY**

By:   
\_\_\_\_\_  
Bill Morley, Mayor

Attest:  
  
\_\_\_\_\_  
Teri Anthony, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

By:

\_\_\_\_\_  
City Attorney