

ORDINANCE NO. 18-2393

An ordinance of the City of Hoover to provide for licensing of special events on public property within the City and to repeal all ordinances and parts of the ordinances of the City of Hoover in conflict therewith.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Hoover, in regular meeting duly assembled, a quorum being present, as follows:

Section 1. Modification of Chapter 8, Article II, Section 8-16(6) of the *Municipal Code of the City of Hoover, Alabama.*

Chapter 8, Article II, Section 8-16 License schedule (6) MERCHANTS, RETAIL AND WHOLESALE of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by adding Section 8-16(6)s as set forth below. The remainder of Section 8-16(6)a through 8-16(6)r shall remain unchanged.

(6) MERCHANTS, RETAIL AND WHOLESALE.

s. Special events with temporary sales.

- (1) Special event defined –For the purposes of this section only, the term “special event” shall mean any concert, demonstration, marathon, march, sale, memorial, festival, parade, public assembly, race, walk or any other such activity or gathering of persons, animals or vehicles upon public or private property that is organized primarily for the purpose of amusement, athletic competition, business, charity, commemoration, demonstration, education, entertainment, or for the purpose of promotional publicity.
- (2) Each person, firm or corporation that conducts a special event of less than five (5) days in duration shall pay a sponsor license pursuant to (i) or (ii) below.
 - (i) Each person, firm or corporation engaged in the business of promoting or selling goods, wares or products at craft shows, arts shows, art exhibitions, athletic events, festivals, and similar type events shall pay a license of \$100.00, additionally each vendor on the premises of the event shall pay a license of \$50.00. Licenses shall be issued on a one-time basis and will only cover one event/sale. Applications for a sponsor license must indicate the location of the event, which location must be approved by the city’s zoning, building and fire departments; OR
 - (ii) Each person, firm or corporation engaged in the business of promoting or selling goods, wares or products at craft shows, arts shows, art exhibitions, athletic events, festivals, and similar type events shall pay a license of \$500.00. There shall be no additional license fee for each temporary vendor

on the premises of the event. Licenses shall be issued on a one-time basis and will only cover one event/sale. Applications for a sponsor license must indicate the location of the event, which location must be approved by the city's zoning, building and fire departments.

- (3) Each person, firm or corporation participating in a special event shall also be responsible for obtaining on its behalf all required permits and other licenses required by law for its business.
- (4) Where temporary sales of merchandise or services for which a license is required under this section occurs on the premises of an existing licensee of the city by another person(s), it shall be the duty of the licensee, the owner, and/or the person in possession of the premises (knowingly allowing such sales of merchandise or services) to allow such sales only upon presentation of proof from the person(s) sponsoring the temporary sale that a valid and existing license has been issued by the city to permit the sale. Each seller of merchandise or services required to be licensed for a temporary sale under this section shall display at the place of sale in a place viewable by the public, an appropriate license issued by the city. Where the license is issued to the sponsoring organization or beneficiary, the city can deliver a separate license showing the same identification number and dates for each separate seller. No such license shall be valid for more than one location or event. No business license will be issued without presentation of written permission from the owner of the property.
- (5) A unit of government or non-profit entity certified by the Internal Revenue Service as a 501(c)(3) organization that conducts a special event of less than five (5) days in duration shall register the special event with the city and apply for and be issued a license permit for such event. Each temporary vendor on the premise of the special event shall pay a minimum license of \$50.00. Units of government, certified non-profit entities, and vendors participating in a special event shall also be required for obtaining on its behalf all required permits and other licenses required by law for its business.

Section 2. Addition of Chapter 13, Section 13-4 to the *Municipal Code of the City of Hoover, Alabama.*

Chapter 13, Section 13-4 Special Events is hereby added to the *Municipal Code of the City of Hoover, Alabama* as follows:

Section 13-4. Special Events.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business day means a day on which the city administrative offices are open for regularly conducted business and does not include Saturdays, Sundays, official city holidays, or a day on which weather or other conditions have made the city's administrative offices inaccessible.

Participants means only those persons actually taking part in the special event, including but not limited to those sponsoring, organizing, promoting or initiating the special event; those invited to attend; those paying to attend; or those for whom the special event is sponsored, organized or initiated, including the general public.

Public place, public area or public property means streets, sidewalks, parkways, highways, roads, boulevards, avenues, alleys, plazas, parks, medians and any and all spaces dedicated to the public use or used in any way by the city for the benefit of the public. This definition does not include any portion of the Hoover Metropolitan Complex for which no special event permit shall be required under this provision.

Special events department means the Events Department for the city.

Special event means any concert, demonstration, marathon, march, memorial, festival, parade, public assembly, race, walk or any other such activity or gathering of persons, animals or vehicles upon public property that is organized primarily for the purpose of amusement, athletic competition, charity, commemoration, demonstration, education, entertainment or for the purpose of promotional publicity. The term shall not include informal gatherings of individuals whose use of public property is in conformance with the property's dedicated purpose and in accordance with the laws governing such use.

Special event permit means a permit for a special event as required by this section.

(b) Special event permit required. Unless a special event permit shall have been obtained from the city's special events department for the use of any public place or unless otherwise permitted by this code, no person shall (i) conduct a special event, and/or (ii) (a) stop, stand or park any wagon, pushcart, automobile, truck or other vehicle or (b) erect any temporary stands, tents, tables, signs, etc. or otherwise, upon or within any public property or right of way for the purpose of selling or offering for sale any goods, food, wares, merchandise or products of any kind.

(c) Exceptions to permit requirement. This section shall not apply to:

- (1) Funeral processions; and
- (2) A governmental agency acting within the scope of its functions.

(d) Application. A person seeking issuance of a special event permit shall file an application with the special events department of the city.

- (1) Filing period. An application for a special event permit shall be filed with the city's special events department not less than thirty (30) days before the date of the event.

- (2) Contents. The application for a special event permit shall set forth at a minimum the following information:
- a. The name, date of birth, address, telephone number and email address of the person seeking to conduct the special event;
 - b. The purpose of the special event;
 - c. If the special event is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization, and the authorized contact person or event coordinator of such organization;
 - d. The date when the special event is to be conducted;
 - e. The hours when such event will start and terminate;
 - f. A statement as to whether food and/or alcohol will be consumed or sold;
 - g. A statement as to whether the special event will occupy all or only a portion of the width of the streets proposed to be traversed;
 - h. A statement describing what portion of any street, park, sidewalk or other public place will be occupied by the event and a site map and/or route of the special event, as applicable;
 - i. The time at which units of the special event will begin to assemble at any such assembly area or areas;
 - j. The interval of space to be maintained between units of such special event if a parade;
 - k. If the special 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 special events department, a communication in writing from the person proposing to hold the special event authorizing the applicant to apply for the permit on his behalf;
 - l. expected attendance;
 - m. copy of liability waiver listing insureds required by city; and
 - n. any other information and/or documents deemed necessary by the special events department for the consideration of the permit.
- (3) Late applications. The special events department, where good cause is shown therefor, shall have the authority to consider any application

under this division which is filed less than one day before the date such event is proposed to be conducted.

(e) Standards for issuance. The standards for issuance of a special events permit shall, include but not be limited to the following:

- (1) The conduct of the special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route or location.
- (2) The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.
- (3) The conduct of such special event will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto.
- (4) The concentration of persons, animals and vehicles at assembly points of the special event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
- (5) The conduct of such special event will not interfere with the movement of firefighting equipment en route to a fire.
- (6) The conduct of the special event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
- (7) The special event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- (8) The special events department, if deemed necessary, may require the applicant to designate a certain number of special event marshals who shall be responsible for conducting the special event in an orderly manner.
- (9) Payment of and receipt by the City of any personnel costs or fees required for the use of any public amenities located on public property as provided in Section 13(g) below.
- (10) The individual, business or other entity is in good standing with city and is not or has not violated city ordinances, policies and best business practices.

(f) Insurance. As a condition precedent to the use of public facilities or other public property, an applicant may be required to obtain, at their expense, a comprehensive general liability insurance policy including contractual liability, liquor, products and completed

operations liability and automobile liability, if applicable, for the special event and name City of Hoover and others as required by the City as additional insureds on said policy, if applicable. Said policy shall provide limits of liability in the minimum amounts as required by the City for bodily and personal injury, property damage and food products liability.

(g) Fees and expenses. An applicant shall pay, no later than seven (7) days prior to the date of the event and before issuance of the special event permit, any personnel costs or fees required for the use of any public amenities located on public property such as picnic shelters, gazebos or other such facilities available for the use of the public.

(h) Time for Action on Application; Notice and Grounds for Denial of Application. The special events department shall act upon an application for a special event permit within a reasonable time after an applicant has submitted a completed application and all required information to the City's special events department. The application shall be considered complete following the receipt of all information required in Section 13.4(d) above.

If the application is denied, the special events department shall mail to the applicant within ten (10) days after the date upon which the application was completed, a notice of the denial, stating the reasons for the denial of the permit. Reasons for denial of a special event permit include, but are not limited to, the following:

- (1) The application is incomplete in a material respect.
- (2) The application has been fraudulently completed.
- (3) The application is for an area that is not covered by the terms of this section.
- (4) A portion of the event will take place on private property or property under the control or jurisdiction of any board, agency or other governmental entity and permission has not been obtained from such persons or entities.
- (5) The special event is a picket and the proposed location of the event is before the residence or dwelling of any individual who is the target of the picket.
- (6) An adjacent public area has already been scheduled for use at the same time and simultaneous uses cannot be accommodated.
- (7) All or a portion of the public area requested has already been scheduled for use at the same time and simultaneous uses cannot be accommodated.
- (8) For events that will take place upon or involve the closing of any public way that is primarily dedicated for the purpose of vehicular traffic, the duration of the event, including setup and takedown, exceeds a reasonable time in the opinion of the special events department.
- (9) The estimate of the anticipated participants is in excess of the maximum designated as allowable for the area based on a formula of nine square feet per participant.

- (10) The event is not scheduled to commence and end during daylight hours unless the location of the event possesses appropriate artificial light.
- (11) The special event is a violation of federal, state or local ordinances, statutes or laws or special event is not recommended by public safety based on previous violations of federal, state or local ordinances, statutes or laws.
- (12) The conduct of the event will substantially interrupt the safe and orderly movement of traffic in the area of its route or location.
- (13) The conduct of the event will require the diversion of so great a number of police officers of the city to properly police the area or route that will be occupied by the special event and contiguous areas so as to prevent normal police protection to the city.
- (14) The conduct of the event will require the diversion of so great a number of ambulances and fire rescue units as to prevent normal ambulance and rescue service to portions of the city other than those areas or routes that will be occupied by the special event and contiguous areas.
- (15) The concentration of persons, animals, floats and/or vehicles at the assembly points of the event will unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.
- (16) The conduct of the event will interfere with the movement of firefighting equipment en route to a fire.
- (17) There is an insufficient complement of city personnel available to provide the necessary security, traffic control or crowd control for the event because another special event has been scheduled for the same day to which such personnel have previously been assigned.
- (18) The proposed event will require the use of city personnel and is scheduled to commence within one hour of the projected completion of a previously scheduled event to which some or all of such personnel have been assigned.
- (19) The applicant has failed to reimburse the city for expenses and fees charged for a prior special event.
- (20) The location requested is for a public way used primarily for vehicular traffic that is a major arterial within the city limits unless the magnitude of the event requires it and such an event cannot reasonably be accommodated elsewhere. This subsection shall not apply to events that merely traverse a major arterial and that are not otherwise prohibited according to the terms of this section.

- (21) The public location requested is unavailable due to fire, casualty, acts of God, scheduled maintenance or public emergency.
- (22) All required licensing has not been obtained by vendors associated with the event.
- (23) Alcoholic beverages will be sold, traded, dispensed, served or consumed and the appropriate licensing has not been obtained within the time prescribed by law.
- (24) Zoning for the proposed special event is not proper.

(i) Revocation or termination of Special Event Permit. The special events coordinator or designee shall have the authority to revoke a special event permit issued under this section. Reasons that any special event permit issued or reservation made for the use of public property pursuant to the terms of this section may be revoked or an event terminated on the day of the permitted activity without prior written notice and without a hearing, include, but are not limited to the following

- (1) Revocation or termination is in the interest of the immediate public health or safety because of fire, casualty, act of God or a public emergency;
- (2) Any term, standard for issuance, condition, duty, restriction or limitation of such permit or reservation has been violated by event participants and, as a result, the immediate health or safety of any participant or the general public is threatened;
- (3) Any federal, state or municipal ordinance, statute or law is being violated by a participant; or
- (4) A breach of the peace is occurring or an activity in the nature of a riot has occurred.

(j) Appeal procedure. Any person aggrieved shall have the right to appeal the denial of a special event permit to the city council. The appeal shall be taken within three (3) days after denial. The city council shall act upon the appeal at the next regularly scheduled council meeting.

(k) Alternative permit. The special events department, in denying an application for a special event permit, shall be empowered to authorize the conduct of a special event on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within seven days after notice of the action of the special events department, file a written notice of acceptance with the special events department. An alternate special event permit shall conform to the requirements of, and shall have the effect of a special event permit under this section.

(l) Notice to city and other officials. Immediately upon the issuance of a special event permit, the special events department shall send a copy thereof to the following:

- (1) The chief of police.

- (2) The fire chief;
 - (3) Traffic engineering;
 - (4) Revenue Department; and
 - (5) Any other department or individual deemed necessary by special events department.
- (m) Contents. Each special event permit shall state the following information:
- (1) Starting or beginning time;
 - (2) A map of route or site map of event;
 - (3) The portions of the streets to be traversed or utilized, if applicable;
 - (4) The maximum length of the special event in miles or fractions thereof, if applicable; and
 - (5) Such other information as the special events department shall find necessary to the enforcement of this section.
- (n) Duties of permittee.
- (1) Compliance with laws. A permittee under this section shall comply with all permit directions and conditions and with all applicable laws and ordinances.
 - (2) Possession of permit. The special event chairperson or other person heading or leading such activity shall carry the special event permit upon his/her person during the conduct of the special event.
- (o) Public conduct during special events.
- (1) Interference. No person shall unreasonably hamper, obstruct or impede, or interfere with any special event or with any person, vehicle or animal participating or used in a special event.
 - (2) Driving through special events. Except for public safety or special event vehicles, no driver of a vehicle, street car or trackless trolley shall drive between the vehicles or persons comprising a special event parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
 - (3) Parking on special event route. The city 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 special event. The permittee shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation therefor. No person shall be liable for parking on a street unposted in violation of this section.

Section 3. **REPEAL.** All ordinances, parts of ordinances, and resolutions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. LEGAL RIGHTS NOT IMPAIRED. That nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law except as set forth herein. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 7. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 8. EFFECTIVE DATE OF ORDINANCE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

Done this the 16th day of July, 2018.

Gene Smith, President of the City Council

APPROVED:

Frank V. Brocato, Mayor

ATTESTED:

Margie Handley, City Clerk