

ORDINANCE NO. 1011

AN ORDINANCE AMENDING THE CITY OF LEVELLAND, TEXAS CODE OF ORDINANCES BY ADDING ARTICLE 4.1300 ENTITLED “SPECIAL EVENTS” ESTABLISHING A PERMITTING PROCESS TO GOVERNING SPECIAL EVENTS WITHIN THE CITY AND ON PUBLIC PROPERTY; PROVIDING FOR A PENALTY NOT TO EXCEED \$500.00 FOR FAILING TO OBTAIN A PERMIT; PROVIDING AN EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council for the City of Levelland, Texas pursuant to the constitution and laws of the State of Texas including, but not limited to, Article 11, Section 5 of the Texas Constitution as a home rule city, has the authority to set forth ordinances and regulations and exercise its police powers for the public health, safety, morals, or general welfare of the citizens of the City of Levelland; and

WHEREAS, the City Council believes that special events and festivals can contribute to the unique character and vitality of the city and serve to stimulate economic growth and promote tourism thus significantly benefitting the city; and

WHEREAS, special events and festivals can have an impact on public safety by impeding the flow of vehicular and pedestrian traffic; and

WHEREAS, the City Council of the City of Levelland, finds the following addition to the Code of Ordinances for the City of Levelland establishing a special event permitting process will enable the City’s emergency and safety personnel to plan, prepare and respond to issues affecting the public safety during special events and festivals and are reasonable and beneficial for the public health, safety and general welfare of the citizens of Levelland and a proper exercise of its police power;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF LEVELLAND, TEXAS, THAT:

SECTION 1. The Code of Ordinances, 1997, City of Levelland Texas, is hereby amended by adding Article 4.1300 to read as follows:

Article 4.1300 SPECIAL EVENTS

Sec. 4.1301 Definitions

In this article these words have the meaning indicated unless a different meaning clearly appears from the context:

Applicant. A person who has filed a formal written application with the city for obtaining a special event permit.

City. The City of Levelland, Texas.

Permit holder. The person to whom a special event permit is granted pursuant to this article.

Permit Board. As used in this article, the term "permit board" shall mean the corporation permit board created by Section 4.703 the Code of Ordinances, 1997, City of Levelland.

Promoter or Sponsor. Any individual, assumed-named entity, partnership, association, corporation, firm or organization that promotes, organizes, manages, finances or holds a special event.

Special event or event. Any event, festival, parade, meeting or gathering that is temporary in nature, whether for-profit or non-profit, and (i) is held at a specific location within the city limits on public or private property, which attracts or can be expected to attract more than 200 persons at any instant during the special event; or (ii) regardless of size or participation, will require special needs for traffic control or a street closure. The term does not include an event or gathering that occurs within or on the same property as an established permanent athletic stadium, arena, auditorium, the Levelland-Oxy Sports Complex, the Mallet Event Center, conference center or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons. Early Settlers Day shall be considered a special event for purposes of this article. The term does not include a carnival or an exhibition as those terms are defined in Article 4.700 of the Code of Ordinances, 1997, City of Levelland.

Street. Any public or private street, sidewalk, alley, right-of-way, avenue, lane, boulevard, drive, public place or highway commonly used for vehicular or pedestrian travel within the city.

Sec. 4.1302 Authority of the Permit Board

The permit board shall have the authority to issue a permit for special events when requirements of this article have been met and shall perform all duties assigned to it under the terms of this article. The provisions of this article shall be administered and enforced by the City Manager or their designee and the City Manager is authorized to establish additional protocols, policies and guidelines consistent with the terms of this article.

Sec. 4.1303 Permit Required

- (a) It shall be unlawful for any person to promote or conduct a special event without first having applied for and obtained a permit from the permit board pursuant to the requirements outlined in this article.
- (b) The permit board may, at its discretion, authorize the issuance of a single permit for a series of special events so long as the series of special events are:
 - (1) essentially identical in all material aspects except for the days on which they occur;
 - (2) the special events all occur within the same calendar year;
 - (3) the dates on which the special events will occur are known and included in the permit application; and
 - (4) all other provisions of this article are followed.

Sec. 4.1304 Application Procedure

- (a) An application for a special event must be filed not more than 120 days nor less than 60 days before the special event is to begin. The City Manager may waive the 60-day filing requirement if it is determined that the application can be processed in less than 60 days, taking into consideration the size of special event, whether special accommodations must be made such as street closures, and the number and types of additional permits or licenses required to be issued to hold the special event.
- (b) The application shall be filed with the City Secretary. Upon receiving the application, the City Secretary shall notify the other members of the permit board and schedule a meeting to review the application. At the City Manager's discretion, due to the nature of the special event being applied for, the City Manager may include the Fire Chief, the Chief Building Official, and/or other appropriate official as additional members of the permit board for purposes of reviewing the application.
- (c) The application for a special event shall contain, at a minimum, the following information:
 - (1) The name, resident address, e-mail address and telephone number of the applicant.
 - (2) The name, address, e-mail address and telephone number of any promoter or promoters of the special event if someone other than or in addition to the applicant.

- (3) If the promoter(s) is/are someone other than the applicant, the applicant shall file a written statement from the promoter showing authority to make the application.
- (4) The name of any local sponsor(s) of the special event.
- (5) The type and purpose of the event.
- (6) A full and complete description of the location upon which the event is to be located.
- (7) The dates and times the event will start and end and the time at which on-site activities in preparation for the event will begin.
- (8) The estimated number of people who may attend the event.
- (9) Written permission showing the consent from the owner of the property or their authorized representative for the use of the property. For an event involving the use of property owned or controlled by another governmental entity (i.e. the county, school district, etc.), including county streets, the applicant is required to obtain permission to use that property from an authorized official of the respective entity. The applicant is responsible for obtaining and providing proof of such permission. Due to the location, size or proposed use of the governmental entity's property, the permit board may require the approval of the governing body as well.
- (10) A site plan of the proposed location for the special event depicting the approximate location, size and orientation of any tents, awnings, canopies, loud speakers, booths, fences, barricades, traffic cones, restroom or portable toilet facilities, lighting, and other temporary structures. In addition, a listing with as much detail as possible of the types of booths, merchandise, food, and beverage that will be for sale or provided at the event. If the event includes involves the sale, consumption or service of alcoholic beverages, a clear delineation of where such sale, consumption or service will occur. The site plan shall include any other information required by this article.
- (11) Details of any electrical, mechanical or plumbing work to be conducted to prepare for or to hold the event and if so, evidence showing how it will be done in accordance with the city's adopted building codes.
- (12) Details showing the location of trash containers in adequate numbers that shall be placed at convenient locations for the use of the public during the special event, and an explanation of how the trash containers will be serviced and emptied during and after the event.

(13) For events where alcoholic beverages may be provided or served, a detailed description of how the alcoholic beverages will be made available, including the projected quantity and type of alcoholic beverages that may be present.

(d) *Public Safety Review.* Where the Police Chief or Fire Chief determines that a proposed special event could have an adverse impact on public safety through diminished access to buildings, structures, fire hydrants and fire apparatus, access roads or where such event will adversely affect public safety services of any kind, the Police Chief or Fire Chief shall have the authority to order the development and submittal of a public safety plan for the provision of an appropriate level of public safety. The public safety plan shall address:

- (1) Emergency vehicle ingress and egress;
- (2) Fire protection;
- (3) Emergency medical services;
- (4) The directing of both attendees and vehicles (including the parking of and traffic flow of vehicles);
- (5) The need for the presence of law enforcement at the event; and
- (6) The need for the presence of fire and emergency medical services personnel at the event.

(e) *Insurance.* The applicant shall obtain insurance or bonds as deemed necessary by the permit board to protect the public, to ensure that the permit conditions are complied with, or to ensure that the applicant will be able to pay any claims which may arise out of the proposed activity. The permit board may establish the types and amounts of coverage including, but not limited to, public liability insurance, commercial general liability insurance, liquor liability insurance and/or business automobile liability insurance. The permit board may require the insurance policies name the city as an additional insured under such policies.

(f) *Exemptions.* The following may be conducted within the city without obtaining a special event permit.

- (1) Private parties held on residential private property and to which the public is not invited and where such party does not impact public rights-of-way or involve activities or facilities not permitted by applicable zoning regulations.
- (2) Funeral processions.

(3) Events held in a city park where a park permit has been issued.

(g) *Application/Permit Fee.* The application/permit fee for a special event will be established by the applicable fee schedule adopted by the city council. The applicant may incur additional costs related to human or other resources required for the event in accordance with this article.

(h) For events that will be held on municipally owned property that will also involve the sale or service of alcoholic beverages, the permit application must also be approved by the city council.

(i) *Trash Removal/Cleanup After Event.* The permit holder is solely responsible for the cleanup of all trash and debris at the site of the event. Within twenty-four (24) hours of the conclusion of the event, a city official may inspect the site to ensure that compliance with this provision has been met. In the event trash and debris originating from the event has not been cleaned up to the satisfaction of the city official and it becomes necessary for the City to clean up the site, the permit holder shall be considered in violation of this article and may be assessed and billed the City's reasonable and necessary expenses incurred in cleaning up the site and removing any trash and debris.

Sec. 4.1305 Street Closures; Parking

(a) If the site plan provided by the applicant indicates proposed streets to be closed or the permit board requires that certain streets be closed for the special event, the permit board or its designee will review all proposed street closures to ensure that proper traffic-control measures will be in place. Street closures will only be provided by the city.

(b) Closures involving state highways must also be approved by the Texas Department of Transportation.

(c) The City Secretary will notify the applicant of what the cost will be to provide the requested street closures. Costs shall be determined based on the applicable fee schedule adopted by the city council.

(d) If parking needs for the event are expected to exceed the area(s) owned by or assigned to the location for the special event, appropriate parking arrangements must be made with affected properties or establishments and outlined on the site plan.

Sec. 4.1306 Alcohol

(a) Events involving the sale or service of alcoholic beverages require proper permits from the Texas Alcoholic Beverage Commission (TABC). The applicant is responsible for obtaining all requisite TABC permits and providing proof of such permits to the city prior to the city issuing a special event permit.

(b) For events involving the sale or service of alcoholic beverages participants who may legally consume alcoholic beverages shall be permitted to have open containers of alcoholic beverages during the event hours within the area designated in the application provided. Provisions must be made and outlined in the permit application detailing the procedures and security that will be used to prevent participants from exiting the designated area with alcoholic beverages.

Sec. 4.1307 Security

(a) Applicants for special events may be required to provide security, crowd control and traffic control for the duration of the special event. The type and level of such security will be determined by the Chief of Police in accordance with the provisions outlined in subsection (b) below. The applicant will be responsible for the cost of the security. In the event the applicant desires to use private security officers, they shall be required to furnish written evidence from a state-certified security agency that arrangements have been made to furnish such security officers as required by the Chief of Police prior to issuance of a permit. Applicants may elect to use city police officers for such service upon concurrence of the Chief of Police and payment for such service prior to issuance of a permit.

(b) In determining the level of security required, the following non-exclusive items may be considered by the Chief of Police:

- (1) Whether alcoholic beverages will be sold, served, or otherwise made available at the event;
- (2) If special needs in security, crowd control, or traffic control are created by (i) the topography of the site or size of the event; (ii) the weather conditions during the event; or (iii) the time of day during which the event is conducted;
- (3) The event requires street closures or rerouting of vehicular or pedestrian traffic; or
- (4) The history of the particular event indicates that a greater or lesser level of security is required to protect the public health, safety, and welfare.
- (5) Other factors affecting the public health, safety and welfare the Chief of Police may feel relevant.

Sec. 4.1308 Permit Application Review and Issuance

(a) At the meeting of the permit board, the board shall determine whether all requirements of this article have been met, whether a deposit will be required, whether insurance or a bond is required of the applicant and whether the location of the proposed

special event meets with the requirements of this article. Upon finding that all requirements of this article have been met, the permit board shall issue the special event permit or issue the permit with conditions. If the permit board finds that all requirements of this article are not met or should be denied based on the provisions of this article, the permit board shall deny the application until proof of compliance with the terms of this article are provided to the permit board.

(b) The permit board shall grant the permit, grant the permit with conditions, or deny the permit within twenty (20) days after receipt of a completed application.

(c) If the permit board grants the permit with conditions, denies, or revokes a permit, the permit board shall deliver written notice to the permit holder or applicant stating the action and the reasons supporting such action. The notice shall be delivered using the contact information for the applicant as provided on the application.

Sec. 4.1309 Denial or revocation

(a) The permit board may deny or revoke an application for a special event permit if:

(1) The proposed event will conflict with another special event that has been previously granted a permit for the same time, site or location;

(2) The special event would severely hinder the delivery of normal or emergency services that cannot be remedied through reasonable accommodations as determined by the permit board;

(3) The time, place or manner of the proposed event will disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;

(4) The applicant has been cited for violating this article during a previous event or the applicant has failed to comply with the terms of a previous special event permit;

(5) The applicant makes a false or misleading statement or omission of material fact on the application for a special event permit; or

(6) The applicant does not comply with the issued permit by conducting the event in accordance with the event description and site plan provided in the application or the conditions stipulated by the permit board when the permit is issued,

Sec. 4.1310 Appeal

An applicant for a permit under this article or the permit holder may appeal to the City Council the decision of the permit board to deny issuing a permit or placing conditions on the issuance of the permit. The applicant may appear for hearing before the City Council to present information concerning why the City Council should reverse the action of the permit board. The applicant or permit holder must file a written notice of appeal with the City Secretary within ten (10) days from the finding or action of the permit board. Upon the filing of such notice of appeal, the application for the permit and all papers possessed by the permit board in connection with such application and such permit shall be delivered to the City Council and such matters as may be in controversy shall be heard by the City Council within 14 days from the date of receipt of the notice of appeal. The City Council shall have the same powers and authority at such hearing on such appeal as is vested in the permit board by this article. The City Council may add such conditions and additional requirements for granting a permit as the council sees fit. The decision of the City Council on appeal is final. No further administrative procedures are provided by the city.

Sec. 4.1311 Penalty; Enforcement; Right of Entry

- (a) Any violation of this article by any person shall constitute a misdemeanor and shall be punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code. This penalty provision shall be in addition to any other legal or equitable remedies available to the City to enforce this article.
- (b) A person to whom a permit has been issued who intentionally violates the terms of the permit shall be guilty of a misdemeanor and punishable in accordance with the penalty provisions of this section.
- (c) A person participating in a special event for which a permit has been issued who intentionally violates the terms of the permit shall be guilty of a misdemeanor and punishable in accordance with the, penalty provisions of this section.
- (d) A person who promotes, sponsors, participates in a special event without first obtaining a special event permit and with knowledge that no permit has been issued shall be guilty of a misdemeanor and punishable in accordance with the penalty provisions of this section.
- (e) The city through its officials, employees, agents, and representatives shall have the right at all reasonable times to enter upon the premises of the special event for the purpose of inspecting and ensuring compliance with the provisions of this article, and for the doing of any act or thing which the city may be obligated to or have the right to do under the permit, this article, or other applicable city ordinance, rule or regulation.

SECTION 2. The Code of Ordinances, 1997, City of Levelland Texas, is hereby amended by

adding Section 2.600 of Article 2.000, Business Related Fees of Appendix A, Fee Schedule, to read as follows:

Sec. 2.600 Special Event Permit Fees

Minimum Permit Fee:	\$50.00
Street Closure Administrative Fee:	\$20.00
Street Closure Barricade Fee:	\$5.00 per barricade

SECTION 3. The Code of Ordinances, 1997, City of Levelland Texas, is hereby amended by adding the following sentence at the end of Section 4.702, Definitions, of Article 4.700, Carnivals and Exhibitions:

The term “carnival” and “exhibitions” as used in this article does not include “special event” as that term is defined in Article 4.1300 of the Code of Ordinances.

SECTION 4. The Code of Ordinances, 1997, City of Levelland Texas, is hereby amended by deleting in its entirety Section 4.713, Exemptions from Article, of Article 4.700, Carnivals and Exhibitions.

SECTION 5. Penalty. Any person found in violation of any provision of this Ordinance shall be shall be guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the general penalty provision found in Section 1.106 of the Code of Ordinances, 1997, City of Levelland, Texas.

SECTION 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 7. Repealed. All other terms and provisions of the Code of Ordinances, 1997, City of Levelland, not in conflict herewith and not hereby amended shall remain in full force and effect.

SECTION 8. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Levelland, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 9. Publication. The City Secretary of the City of Levelland is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

Passed and approved on first reading this 19th day of December, 2016.

Passed and approved on second reading this 9th day of January, 2017.

Barbra Pinner
Mayor

ATTEST:

Beth A. Walls, TRMC, IPMA-CP
City Secretary