

ORDINANCE NO. 2017-10

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTERS 8 AND 16 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 16-1 AND RENUMBERING IT AS SECTION 8-1 PERTAINING TO MUNICIPAL SPECIAL EVENTS; ACTIVITIES; DEFINITIONS; BY RENUMBERING SECTION 16-2 AS SECTION 8-2 PERTAINING TO MUNICIPAL SPECIAL EVENTS; ACTIVITIES; REQUIREMENTS; BY AMENDING SECTION 16-3 AND RENUMBERING IT AS SECTION 8-3 PERTAINING TO MUNICIPAL SPECIAL EVENTS; ACTIVITIES; APPLICATION REVIEW; BY RENUMBERING SECTION 16-4 AS SECTION 8-4 PERTAINING TO MUNICIPAL SPECIAL EVENTS; SUSPENSION; REVOCATION; BY RENUMBERING SECTION 16-5 AS SECTION 8-5 PERTAINING TO MUNICIPAL SPECIAL EVENTS; LICENSES; EXEMPTIONS; IDENTIFYING CURRENT CHAPTER 8 OF THE PEORIA CITY CODE (1992) TO BE RENUMBERED AND/OR AMENDED BY A SEPARATE ORDINANCE; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 16 of the Peoria City Code (1992) is amended by amending Section 16-1 and renumbering it as Section 8-1 pertaining to Municipal Special Events; Activities; definitions and which shall read as follows:

Sec. ~~816~~816-1. Municipal Special Events; Activities; definitions

(a) Definitions. For purposes of this Section, the following definitions shall apply:

(1) "Special Events Committee": ~~shall mean a~~shall mean a committee comprised of designated representatives from involved City departments, specifically the Police Department, Fire-Medical Department, Community Development/Code Compliance, Engineering, Public Works, Community Services, Office of the City Attorney, and any other City organizational unit

which may be impacted by a specific proposed Temporary Special Event or Activity.

(2) "Temporary Special Event or Activity": ~~shall mean a~~Any of the following organized activities:

a. Any indoor or outdoor public gathering or celebration that uses City-owned property for any of the following activities:

- i. Entertainment.
- ii. Dancing.
- iii. Music.
- iv. Dramatic productions.
- v. Amusements, festivals, or carnivals.
- vi. Sale of merchandise, food, or alcohol, including sidewalk sales. If the sale of such items is only incidental to the purpose of an event and the event otherwise does not qualify as a Temporary Special Event or Activity (such as the sale of shirts and hats at a sporting event), then this Section shall not apply to the event.
- vii. Parades, walks, bicycle rides, or runs that will not comply with the normal or usual traffic regulations or controls or are likely to impede, obstruct, impair, or interfere with the free flow of traffic.
- viii. Any temporary extension of premises of an existing use.

b. Any activity taking place on City-owned property which requires a State-issued temporary extension of liquor licenses premises or a special event liquor license.

c. Any activity taking place on City-owned property used as a public gathering place that involves a substantial deviation from the current legal land use, or legal nonconforming use, such as provided in subsection (a)(1) above, as determined by the Special Events Committee.

d. Any activity taking place on City-owned property which may require for its successful execution City services provided to a degree significantly over and above that routinely provided under

ordinary circumstances, as determined by the Special Events Committee.

SECTION 2. Chapter 16 of the Peoria City Code (1992) is amended by renumbering Section 16-2 as Section 8-2 pertaining to Municipal Special Events; activities; requirements and which shall read as follows:

Section ~~8~~16-2. Municipal Special Events; activities; requirements.

(a) Rights-of-Way. Parades, runs, walks, bicycle rides, or any similar Temporary Special Event or Activity which will use or may impact City streets or rights-of-way shall comply with all applicable provisions of this Code.

(b) Applications. The sponsoring organization or its authorized agent shall submit a written application to the Special Events Committee within the time deadlines specified in this Subsection. The City may accept late applications if time permits with an additional fee. The Committee may require reasonable supplementation of the information in the application if necessary to determine that additional terms and conditions to impose, if any, and whether to grant or deny the application. An application must be submitted:

(1) If alcohol will be made available at the Temporary Special Event or Activity, at least ninety (90) days in advance of the scheduled starting date.

(2) If no alcohol will be made available at the Temporary Special Event or Activity, at least sixty (60) days in advance of the scheduled starting date.

(c) City Special Events. A Temporary Special Events or Activity that is operated or sponsored by the City is not required to obtain an Application or otherwise comply with the requirements applicable to such events.

SECTION 3. Chapter 16 of the Peoria City Code (1992) is amended by amending Section 16-3 and renumbering it as Section 8-3 pertaining to Municipal Special Events; activities; application review and which shall read as follows:

Section ~~8~~16-3. Municipal Special Events; activities; application review.

(a) Application Review. The Special Events Committee contact shall send copies of each application and other pertinent material to the full Committee and any City departments affected by a proposed Temporary Special Event or Activity. Such committee members and departments shall review the application and provide comments on whether the applicant has met, at its own cost, all requirements of the permit process, including those detailed in the application packet, and shall recommend specific stipulations involving any one or more of the following requirements:

(1) A security plan shall be filed with the Police Department. The security plan shall identify the number of security positions that the event will require. The police department shall establish the number of employees required for the event. The employees may be police assistants or certified peace officers as determined by the Police Chief or his/her designee. All special events held in City owned, leased or controlled facilities shall use only City of Peoria police assistants and City of Peoria certified peace officers, unless the Police Department has determined such employees are not available and granted a waiver of this provision.

(2) Erecting security fencing or approved security barriers as required under the approved City Plan.

(3) Providing sanitary facilities.

(4) Providing refuse removal through City service.

(5) Agreeing to pay for any anticipated or unforeseen costs associated with the Temporary Special Event or Activity, including posting a performance bond if required by the City.

(6) Applying for and receiving all other necessary City permits and approvals.

(7) Taking all measures to provide for fire protection and the health, safety, and welfare of the public, consistent with this Code.

(8) Hiring a stated number of City Fire-Medical Department employees who are emergency medical personnel having required certification levels and a stated type and number of City Fire-Medical Department employees and fire protection equipment as determined by the City Fire-Medical Department.

(9) Any other requirements necessary to ensure that the Temporary Special Event or Activity is conducted in a safe and appropriate manner.

(b) Priority of Applications. In reviewing applications for a given time and location, the Special Events Committee shall give priority to annual, semiannual, or other regularly scheduled or recurring special events. If competing applications cannot be resolved on this basis, the Committee shall grant permits to the earliest completed application received for the time and place requested.

(c) Non-Discrimination. The Special Events Committee shall consider each permit application upon its merits and shall not discriminate based upon

race, creed, color, ethnicity, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, political party affiliation (or lack thereof), familial status, or marital status.

(d) Content. The Special Events Committee shall not consider the content of the speech, actions or event in reaching its decision on whether to grant the permit or to incorporate any stipulations, unless it determines that such stipulations meet a strict scrutiny test in conformance with the United States Constitution and there is a compelling interest in imposing such stipulations.

(e) Security Services. No City Department shall contract for, hire, employ, retain directly or indirectly any police assistant or certified peace officer for security services for a special event who is not an employee of the Peoria Police Department, without the express written approval of the Police Department.

(f) Committee Decision. After obtaining and considering recommendations from the various Committee members, the Special Events Committee shall issue a written decision to the applicant granting the permit with or without stipulations, unless the Committee determines that the permit should be denied upon a finding that the intended activity would be detrimental to the health, safety or welfare of either the general public or of nearby residents or owners of nearby property, or would place an undue burden on City services. The Committee shall provide a copy of any decision to deny an application to the City Attorney. The Committee's decision must be issued within ten business days of receipt of a completed application. If the Committee fails to act within the ten business day period, the application shall be deemed granted and a permit shall be issued.

(g) Reconsideration. If an applicant disagrees with a decision of the Special Events Committee, the applicant shall file with the City Manager a request for reconsideration of the permit denial or permit stipulations within 15 days from the date of denial. The City Manager then shall issue a written decision within 5 days of the request, which decision is final and subject to judicial review.

(h) Permit Issuance. If the Special Events Committee authorizes issuance of a permit pursuant to Subsection ~~(e)~~(f), the permit shall not be issued until all of the following conditions are met:

(1) All applicable City Code and federal and state statutory requirements have been met and all applicable City, state, and federal permits have been obtained;

(2) The sponsoring organization or authorized representative has signed the application agreeing to indemnify and to hold harmless the City from and against any and all losses claims or

actions resulting from the activities of the applicant's employees, principals, or agents;

(3) The organization directly responsible for the Temporary Special Event or Activity has provided satisfactory evidence of suitable personal injury and property damage insurance or such other insurance as deemed necessary by the City;

(4) The organization has repaid the City all amounts owing pursuant to the terms and conditions of any special event permits previously issued to the applicant.

(5) Any other applicable requirements detailed in the application packet, plus any applicable stipulations contained in the Committee's decision, that are required to be met as pre-conditions before permit issuance.

SECTION 4. Chapter 16 of the Peoria City Code (1992) is amended by renumbering Section 16-4 as Section 8-4 pertaining to Municipal Special Events; suspension; revocation and which shall read as follows:

Sec. 846-4 Municipal Special Event Licenses; suspension; revocation.

(a) Suspension. The Chief of Police or Fire Chief, or their designees, may order the suspension of some or all activities under a Temporary Special Event or Activity permit if the public safety official determines that significant safety concerns or violations of this Code are present. The public safety official may issue such order orally to the applicant or its representative. A suspension is a final decision subject to judicial review.

(b) Revocation. The Special Events Committee may revoke a Temporary Special Event or Activity permit in writing if the permittee fails to abide by any of the general conditions and stipulations of the permit or any of the provisions of this Section. A revocation is a final decision subject to judicial review.

(c) Judicial Review. An applicant may obtain judicial review of any denial, suspension, or revocation of a special event permit by filing a petition for review in the City Court within 10 days of the final decision. The City Court shall schedule a hearing expeditiously and in no event later than 10 days from receipt of a petition. The hearing shall be held in an informal manner and the Arizona Rules of Evidence shall not apply. The sole basis for the Court to overturn the decision shall be a finding of factual error or abuse of discretion as to the standards specified in this Section. The burden of proof shall be on the applicant. The Court shall rule expeditiously on the petition and in no event later than five business days after the close of the hearing. Within ten days of the Court's ruling, either party may appeal by way of special action to the superior court. The right of judicial review in City Court is not intended to be an exclusive

remedy and shall not be construed to prohibit any other remedies available by law or equity.

SECTION 5. Chapter 16 of the Peoria City Code (1992) is amended by renumbering Section 16-5 as Section 8-5 pertaining to Municipal Special Events; licenses; exemptions and which shall read as follows:

Sec. 846-5. Municipal Special Events; licenses; exemptions.

(a) Compliance with the First Amendment. Some of the activities regulated under this Section are subject to certain protections granted under the First Amendment of the U.S. Constitution. Therefore, this Section is designed to be a content-neutral time, place, and manner permitting system. The City's implementation of the various provisions in this Section shall seek to ensure compliance with the First Amendment at all times.

(b) Spontaneous events which are occasioned by news or affairs coming into public knowledge less than 60 days prior to such event may be conducted on the open spaces of the City's Municipal Complex without the organizers first having to obtain a permit.

SECTION 6. The current sections of Chapter 8 of the Peoria City Code (1992) will be renumbered and/or amended by way of a separate ordinance to be submitted to the Mayor and City Council for approval.

SECTION 7. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 21<sup>st</sup> day of March, 2017.

Dated: \_\_\_\_\_

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Cathy Carlat, Mayor

ATTEST:

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Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

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Stephen J. Burg, City Attorney

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