

ORDINANCE 12-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS ADDING SECTION 13-20.1, MASS GATHERING PERMIT; REQUIRING COMPLIANCE WITH CERTAIN CONDITIONS; PROVIDING AN EXEMPTION FOR CITY SPONSORED EVENTS AND CONVENTION CENTRE GATHERINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY OF FIVE HUNDRED DOLLARS (\$500.00) FOR ANY VIOLATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION IN CAPTION FORM.

WHEREAS, there are many different types of events that take place year-round on South Padre Island; and,

WHEREAS, it is recognized that these events enhance the South Padre Island lifestyle and provide benefits to citizens and visitors that are not normally provided as a governmental service; and

WHEREAS, events 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, events may require city services to address public health and safety conditions and due to such issues as parking, traffic, crowd management and litter; and

WHEREAS, public safety is a priority of the City of South Padre Island; and

WHEREAS, the intent of the following regulations is to provide a coordinated and comprehensive process for the regulation of events between the City of South Padre Island and the event organizers in order to ensure the health and safety of the participants, spectators, attendees and the general public; and

WHEREAS, it is also the intent of the City of South Padre Island to protect the rights of its citizens and visitors to engage in 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.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, THAT:

SECTION 1. Chapter 13 of the Code of Ordinances of the City of South Padre Island pertaining to special events permits is hereby amended, to add the following:

“Sec. 13-20.1. MASS GATHERING PERMIT.

1) **Definitions.**

A. **Mass Gathering.** A gathering on private or public property, that is not a part of the regular course of business, and that attracts or is expected to attract:

- a) More than 2,500 persons; or
- b) More than 500 persons, if 51 percent or more of those persons may reasonably be expected to be younger than 21 years of age and it is planned or may reasonably be expected that alcoholic beverages will be sold, served or consumed at or around the gathering; and
- c) At which the person(s) will remain:
 - i) For more than two (2) continuous hours; or
 - ii) For any amount of time during the time period from 9 p.m. to 4 a.m.

B. **Person** is an individual, group of individuals, firm(s), corporation, partnership or association.

C. **Promote** includes organize, manage, finance, or hold.

D. **Promoter** means a person who promotes a mass gathering, and may or may not include the owner.

E. **Owner** is the person who owns the private property on which a mass gathering is held or who promotes the mass gathering. The owner is the person responsible for ensuring compliance with this ordinance and will be liable for any violations.

F. **Regular Course of Business** means a gathering that occurs at least twelve (12) times or more a year on that owner’s property and (a) that does not involve ticket sales or (b) other special charges not normally exacted by the business/property owner.

G. **Applicant** means the person who applies for the permit. This may be the owner, the promoter or any other person seeking a permit. The applicant, if he/she is not the owner, is mutually liable with the owner for violations of this ordinance.

2) **Submittal and Application Requirements for Permit**

A person may not promote a mass gathering without a permit issued by the City. A person shall be required to meet the following conditions:

- A. All required submittals for permits shall be in writing and submitted four (4) weeks before the scheduled date of the proposed event to allow adequate review time by the City. The applicant should submit one (1) original and six (6) copies of the application and associated documents, which will be filed with the City secretary.
- B. A security plan shall be submitted to the City and shall be approved by the Police Chief. Any costs associated with security plan compliance shall be borne by the applicant.
- C. An Emergency Medical Services/ first aid plan shall be submitted to the City and shall be approved by the Fire Chief. Any costs associated with EMS/First Aid Plan compliance shall be borne by the applicant.
- D. A Food Proposal Plan, if any, shall be submitted that complies with the Texas Food Establishment Rules and shall be approved by the Environmental Health Director.

- E. A proposal of the maximum number of persons the promoter will allow to attend the mass gathering and the plan the promoter intends to use to limit attendance to that number.
- F. The application must include the promoter's name, address and contact information.
- G. The application must include proof of consent from the property owner to use the property for a mass gathering.
- H. A site plan shall be submitted to the City showing the following, at a minimum:
 - 1. Stage construction and orientation, if any. Windstorm requirements for staging or any other temporary structures must be met.
 - 2. Ingress and egress by attendees
 - 3. Parking plan
 - 4. Traffic control plan
 - 5. Litter plan to minimize impact on surrounding areas and parking areas
 - 6. Sanitation plan. Sanitation facilities shall be provided by the applicants and the number and location of such facilities shall be approved by the Environmental Health Director.
 - 7. Dates and times when event is to be conducted, including set-up and tear down.

3) Process after application

- A. Within 10 days, following receipt of the permit application and its associated documents, the City will advise applicant of the acceptance or denial of the permit. If denied, then applicant will be informed of its deficiencies and be provided with specific instructions for compliance before the City may reconsider approval of the requested permit.
- B. If denied, applicant may appeal in writing within 10 days from denial, to the City Council, at which point it will be placed on the next available regular meeting, for which an agenda has not been prepared.

4) Non-compliance; issuance of permit

- A. Permit fee is \$250.
- B. If applicant complies with all requirements of the City, he/she may obtain a future permit for \$250.
- C. If applicant does not comply with all requirements, and found guilty applicant will not become eligible for another permit until the end of a fourteen (14) month period.
- D. By holding a permit, the owner and applicant consent to the appropriate authority inspecting the mass gathering at any time.
- E. The property owner and applicant are presumed to have consented to all of the conduct on their property and are both liable for violations.

5) Exemptions. This ordinance does not apply to events or mass gatherings held at the Convention Centre, or events or mass gatherings hosted or planned by the City.”

SECTION 2. Any violation of this Ordinance may be punished by a fine not to exceed five hundred dollars (\$500.00) for each offense, and for each hour such offense shall continue shall

be deemed a violation and the penalty provisions of Section 21-1 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

SECTION 3. If for any reason, any section, paragraph, subdivision, clause, phrase, word, or provision of the Ordinance shall be held unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word, or provision hereof be given full force and effect for its intended purpose.

This ordinance shall become effective upon publication of the caption in a newspaper of general circulation.

PASSED AND APPROVED THIS THE _____ DAY OF _____ 2012.
PASSED AND APPROVED THIS THE _____ DAY OF _____ 2012.

APPROVED:

Robert N. Pinkerton, Jr., Mayor

ATTEST:

Susan Hill, City Secretary

SENT BACK TO COMMITTEE - NO 1ST OR 2ND READING