

Ordinances Governing

**SPECIAL EVENTS**

in the

CITY OF ARLINGTON

TEXAS

Amended by Ordinance No. 10-104

(December 14, 2010)

(Chapter Designator: SPECIAL EVENTS)

**ORDINANCE HISTORY**

<u>Number</u>	<u>Date of Adoption</u>	<u>Comments</u>
09-011	03/24/09	Adopt new ``Special Events'' Chapter of the Code of the City of Arlington, Texas.
10-104	12/14/10	Add <b>Article VI</b> , <u>Special Provisions Related to Speech and Public Assembly</u> .

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**ARTICLE I****PURPOSE, FINDINGS AND INTENT;  
DEFINITIONS; ATTENDANCE ESTIMATES****Section 1.01 Purpose, Findings and Intent**

- A. The purpose of this chapter is to ensure citizen and visitor safety by establishing public safety standards for Special Events. This chapter further provides for Special Event safety equipment and safety system Interoperability, event sanitation and health, availability of Automated External Defibrillators, medical care and fire rescue, law enforcement, public safety event plans and appropriate traffic management plans. It is established that public safety response and control is set in accordance with the National Incident Management System for the accomplishment of responsibility associated with prevention, preparedness, response, recovery and mitigation of all major hazard situations. This Special Event chapter will facilitate the promotion of City events and activities and stimulate significant economic growth in the City.
- B. The Arlington City Council finds that:
1. Special Events offered to the general public or a substantial segment of the public often attract a large gathering of people, which may cause adverse public health and safety conditions requiring municipal regulation to assure adequate sanitation and sewage disposal facilities, police services, fire and emergency medical rescue personnel and equipment, parking, traffic management and control, crowd control and other regulations in the interest of public safety and public health.
  2. Special Event Public Safety Plans originated, coordinated, developed and finalized well in advance of a Special Event that detail police, fire, sanitation, emergency medical, emergency management and traffic management safety resources are rational and reasonable to protect citizen and visitor safety and welfare.
  3. The public safety specifications in this chapter are reasonable, public safety industry based

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standards following: Emergency Management Institute recommendations, the United States Department of Justice Law Enforcement Guidelines developed by the Institute for Law and Justice and Mass Gathering/Special Event industry best practices.

- C. It is the intent of the Arlington City Council that this chapter be enacted to protect and promote the health, welfare and safety of citizens and visitors to the City. It is the further intent of the City Council that this chapter be construed liberally in favor of protecting and promoting the health, welfare and safety of the citizens and visitors to the City.

**Section 1.02 Definitions**

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

"Automated External Defibrillator" or "AED" means a heart monitor and defibrillator that meet the requirements of the Texas Health and Safety Code and applicable federal law.

"CBRNE consequence control plan" means the chemical, biological, radiological, nuclear or explosive consequence control plan required for all Special Events.

"City" or "city" means all areas within the corporate limits of the City of Arlington, Texas.

"City Council" means the Arlington City Council.

"City Manager" means the Chief Executive Officer of the City of Arlington, Texas.

"City Public Safety" means police, fire, emergency medical, emergency management or other City of Arlington group responsible for Public Safety Plans, Public Safety Basic Services and Public Safety Special Services.

"Executive Public Safety Special Event Planning Guideline" means the document that provides guidelines for scalable Public Safety Plans and is utilized to communicate specific roles and responsibilities of City departments relating to

Special Events held in the City of Arlington with consideration for the type of event, threat and risk.

"Interoperability" means the direct interoperable radio and other types of communications capability established by Special Event Responsible Parties that conforms with existing City public safety emergency communication systems.

"Medical Director" means the Responsible Party representative providing medical direction and management of medical services associated with a Special Event or a governmental medical authority such as the City of Arlington emergency medical system Medical Director.

"NIMS" means the National Incident Management System adopted by City Council ordinance 05-077 that provides a consistent approach to the effective management of situations involving natural disasters, man-made disasters or terrorism and contains a practice model for the accomplishment of the responsibilities associated with prevention, preparedness, response, recovery and mitigation of all major and national hazard situations.

"Non-City Peace Officer" means a NIMS qualified Texas licensed peace officer not employed by the City of Arlington.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind, but does not include the City of Arlington or its departments, officials, or employees.

"Public Facility" means an outdoor or indoor park or recreational facility, and streets, sidewalks and rights-of-way that are owned, leased, operated, maintained or controlled by the City.

"Public Property" or "public property" means property that is owned, leased, operated, maintained or controlled by the City.

"Public Safety Basic Services" means police standard law enforcement operations, traffic control, fire suppression/rescue and emergency medical service first response.

"Public Safety Plan" means a plan that is developed to address specific public safety issues for Special Events. Included in the Public Safety Plan are numbers of public

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safety personnel required, types of public safety services provided, safety and response procedures, traffic management plan and other planning elements to provide for the security and safety of attendees and Special Events Responsible Parties.

"Public Safety Special Services" means services provided by police and fire requiring specialized training and knowledge. Examples include without limitation: SWAT, undercover operations, motorcycle officers, public safety tactical communications and dispatching, emergency management, NIMS execution, command and control, CBRNE consequence control plan, fire prevention, inspection, technical/specialty rescue, explosive ordnance disposal and hazardous materials response.

"Rescue Service" means the public safety service for the extraction, or movement of individuals from a dangerous, serious or life threatening condition or situation.

"Responsible Parties" means the Special Event applicant, sponsor, promoter, operator or their agents or contractors.

"Special Event" means a preplanned, single gathering event or series of related consecutive daily gatherings or events of an entertainment, cultural, recreational, political or sporting nature, or of any other nature, expected to draw 500 or more people at any assembly as participants and spectators, and sponsored by an individual or entity, which is proposed to be held on a Public Facility.

"Traffic Management Plan" means a plan designed for the purpose of safely and efficiently managing traffic associated with Special Events. All traffic management plans must be approved by the Director of Public Works and Transportation.

### **Section 1.03 Attendance Estimates**

For purposes of this chapter, attendance estimates by the permit applicant shall be accompanied by a written statement for 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 or similar performers, both in the City, and comparable communities; the price of admission; and the extent of advertising and promotion contemplated. The Deputy City Manager designated by the



City Manager shall accept the applicant's attendance estimate representation unless it clearly appears to the Deputy City Manager designated by the City Manager from the written statements that the estimate is understated. In such instance, the Deputy City Manager designated by the City Manager shall substitute an estimate for that of the event applicant.

#### **Section 1.04 Chapter Cumulative**

The provisions in this chapter are cumulative of all City ordinances. Except as provided below, outdoor festival permits, parade permits, park permits, building permits, electrical permits, food establishment permits, amplification permits, alcoholic beverage licenses, and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Special Event permit must be applied for separately in accordance with the applicable ordinance or other law. The Special Event manager designated by the City Manager shall receive and coordinate applications for any city-issued permit or license required in addition to the Special Event permit.

#### **Section 1.05 Exemption**

Special Event Responsible Parties are exempt from the requirements of this ordinance (1) for a Special Event, provided that a Public Safety Plan and a Traffic Management Plan is approved by the Police Chief, Fire Chief and Director of Public Works and Transportation no later than ninety (90) days prior to the Special Event, or (2) for a Special Event at a Major Sports Complex (and the operator of such complex) provided that the Major Sports Complex operator has an approved Public Safety Plan and Traffic Management Plan at least thirty (30) days in advance of the Special Event.

(Adopt Ord 09-011, 3/24/09)

ARTICLE II

SPECIAL EVENT PERMIT

**Section 2.01 Permit Requirement**

No Person shall conduct a Special Event on any Public Property without a Special Event permit.

**Section 2.02 Permit Application**

- A. Application. All applicants for a Special Event permit involving 500 or more persons shall submit a permit application and proposed Public Safety and Traffic Management Plans to the Deputy City Manager designated by the City Manager at least 90 calendar days prior to the date of commencement of the Special Event.

The application and/or proposed Public Safety and Traffic Management Plans, as applicable, shall contain information as to the estimated attendance at the Special Event, the time and place of the Special Event and other information specified in this chapter. To ensure that the public health, welfare and safety are protected, applicants shall provide for compliance with all City plumbing and electrical code requirements; sanitation and sewage disposal facilities, police services for security, crowd and traffic management and control, fire rescue personnel for emergency services, medical services coverage, insurance, and if the event will be held during hours of darkness, lighting complying with lighting standards prescribed in City ordinances, the Executive Public Safety Special Event Planning Guideline or other applicable City ordinances for streets and Public Property. Except for events permitted under the provisions of Subsection 2.02(B), Responsible Parties shall confirm to the Deputy City Manager designated by the City Manager the estimated size of the event at least 30 calendar days prior to the date of commencement of the Special Event.

- B. Recurring events. For Special Events held on a regular or recurring basis at the same location that have similar projected attendance and spectator demographics, an application for a permit and proposed Public Safety and Traffic Management Plans covering all such Special Events during that calendar year may be

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filed with the Deputy City Manager designated by the City Manager at least 90 calendar days before the date and time at which the first event is proposed to commence. An application for a Special Event permit for recurring Special Events must be renewed at least annually for each calendar year.

C. Application information. The permit application shall contain the following information:

1. The name, address and telephone number of the Person seeking to conduct the Special Event;
2. The names, addresses and telephone number of the headquarters of the organization for which the Special Event is to be conducted, if any, and the authorized and responsible heads of the organization;
3. The requested date(s) of the Special Event;
4. If applicable, the route to be traveled, including the starting point and the termination point;
5. The approximate number of vehicles which will constitute the Special Event and a description of the types of vehicles;
6. The hours when such Special Event will start and terminate;
7. If applicable, a statement as to whether the Special Event will occupy all or only a portion of the width of the streets or Public Facility or Public Property proposed to be traversed;
8. The location by street of any assembly areas for the Special Event;
9. The time at which units of the Special Event will begin to assemble at any area;
10. If the Special Event is designed to be held by, or on behalf of, any Person other than the applicant, the applicant for such permit shall file a letter from that Person with the Deputy City Manager designated by the City Manager authorizing the applicant to apply for the permit on his behalf;

11. The type of Special Event, including a description of activities planned during the event;
12. The approximate number of participants;
13. The approximate number of spectators;
14. A designation of any Public Facilities or equipment to be utilized; and
15. Any additional information that the Deputy City Manager designated by the City Manager finds reasonably necessary to make a fair determination as to whether a permit should be issued.

D. Security deposit. A permit for a Special Event requires a security deposit. No permit shall be granted unless the applicant has paid the security deposit in an amount determined by the Deputy City Manager designated by the City Manager in accordance with the standards in this chapter and the Executive Public Safety Special Event Planning Guideline. The amount of the security deposit shall be equal to the estimated cost of all Public Safety Special Services, non-public safety costs (described in Section 3.06) and Public Safety Basic Services that are provided by the City of Arlington (but not including costs for Public Safety Basic Services contracted for directly by Responsible Parties through voluntary contracts with qualified third parties such as described in Section 3.02(A)), and the estimated cost of cleaning up and restoring the premises upon the conclusion of the event. The security deposit shall be deposited by the City into a holding account. No interest shall be due to an applicant for the amount in the holding account. Promptly after the conclusion of the Special Event, the City shall inspect the premises and equipment used by the Responsible Parties.

1. If it is determined that there has been no damage to the City Public Facility or equipment beyond normal wear and tear and that all City costs of cleaning up and restoring the premises and all City costs for City-provided personnel and equipment has been remitted or reimbursed by the Responsible Parties, the security deposit shall be refunded in full within 30 calendar days of the conclusion of the Special Event, unless the Responsible Parties have failed to reimburse the

City for such costs. If the Responsible Parties fail to timely reimburse the City for such costs, the City may deduct such costs from the security deposit as described in this Subsection.

2. If it is determined by inspection that the permitted event proximately caused damage to the Public Facility or equipment in excess of normal wear and tear and which requires repairs in excess of routine maintenance, or that other City costs were incurred as set out in this Chapter, the City shall retain the security deposit or any portion necessary to pay for the cost of such repair or expenditure. The Deputy City Manager designated by the City Manager shall give written notice of the assessment of damages or costs and retention of the security deposit to the Responsible Parties by personal delivery or by deposit in the United States mail, with proper postage prepaid to the name and address set forth in the application for permit. Any assessment of damages or costs in excess of the security deposit shall be paid to the City within ten (10) business days after notice of such assessment of damages is sent. If not timely paid, the City may apply the security deposit to the extent of the damages. Retention of all or a portion of a security deposit shall be subject to the appeal procedures contained in this chapter. An assessment of damages in excess of the security deposit shall be subject to the procedures for appeal contained in this chapter.

- E. Insurance. An applicant shall procure and maintain at all times during its use of public facilities, insurance in such amounts and with such coverage as shall reasonably be required by the City and shall name the City as an additional insured on all coverage. The amounts and type of insurance required shall be determined by the City risk manager, based upon the nature of the activity and the risk involved. An applicant shall provide the City with a certificate from an insurer evidencing such coverage prior to applicant's use of the public facility, and within the time prescribed by the Deputy City Manager designated by the City Manager. The certificate shall also provide that the insurer shall give the City reasonable advance notice of insurer's intent to cancel any insurance coverage.

1. All coverages are to be provided on an occurrence form. In the event that coverage is only available on a claims made form, the insured shall agree to maintain extended reporting coverage for a minimum of two years past the expiration of the annual policy term.
  2. Anything to the contrary, notwithstanding the liabilities of the applicant for obtaining and maintaining the coverage required under this section shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of particular policies for insurance coverages.
  3. All coverage shall be primary and non-contributory with respect to all other available sources. Where the City is named as an additional insured, the City shall be an additional insured to the full limits of coverage purchased by the applicant even if those limits are in excess of the minimums required by this section.
  4. Federal, state and local government agencies may submit a statement of self-insurance allowed by the applicable state or federal statute. Such statement will be acceptable in place of insurance requirements defined herein.
- F. Permit fee. Each applicant for a Special Event permit shall submit a non-refundable application fee with the initial application to help defray the City's cost of processing the application and coordinating the relevant resources and personnel. The amount of the application fee shall be established by resolution of the Arlington City Council.

**Section 2.03 Standards for Issuance of Permit**

- A. The Deputy City Manager designated by the City Manager shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:
1. The conduct of the Special Event will meet the requirements of the Director of Public Works for the safe and orderly movement of other pedestrian

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or vehicular traffic contiguous to its route or location; City approved traffic management and parking plans are required.

2. The conduct of the Special Event will not require the diversion of so great a number of City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;
3. The concentration of persons, animals or vehicles at the Special Event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such Special Event areas;
4. The conduct of the Special Event is not reasonably likely to cause injury to persons or property;
5. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
6. The applicant has secured police, fire and medical protection based on the standards in this chapter and the Executive Public Safety Special Event Planning Guideline;
7. No event is scheduled elsewhere in the City where the police, fire or medical resources required for that event are so great that the deployment of public safety services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property.

**Section 2.04 Issuance of Permit; Conditional Approval; Grounds for Denial**

- A. City staff will contact applicant within 60 calendar days of receipt of the permit application or within 15 calendar days for an event involving less than 5,000 persons. The Deputy City Manager designated by the City Manager will either deny the application by providing the applicant with written reasons for such denial, or shall conditionally approve the application. The conditional approval shall be subject to the applicant providing to the Deputy City Manager designated by the City Manager or his designee within a

- reasonable time before the Special Event any additional information or items required by this Chapter or the Executive Public Safety Special Event Planning Guideline. If the information or items requested by the City are not delivered within a reasonable period of time prior to the Special Event, the permit application will be denied. If City requested information or items are provided, the Deputy City Manager designated by the City Manager shall, within 10 business days of receipt of such items, either deny the application by providing the applicant with written reasons for such denial, or shall approve the application and issue a permit for the Special Event at the time and location named in the application.
- B. An application for a Special Event permit shall be denied, or an existing Special Event permit for recurring Special Events may be suspended or revoked, if:
1. The applicant has made any false material representation in the application.
  2. The applicant fails to provide any of the items or information required by this Chapter or the Executive Public Safety Special Event Planning Guideline.
  3. The Special Event will substantially interfere with any other event, parade, park event, street use event or other Special Event for which a permit has already been granted, or substantially interfere with the provision of public safety or other City services in support of such other previously-scheduled event or events, or will have an unmitigatable adverse impact upon residential or business access and traffic circulation in the area in which it is to be conducted.
  4. The application for permit including any required attachments and submissions is not fully completed and executed.
  5. The applicant has not tendered and maintained the required insurance certificate or security deposit.
  6. The applicant is not legally competent to contract.



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7. The Responsible Parties have, on prior occasions, damaged City property and have not paid in full for such damage, or have other outstanding and unpaid debts to the City.
8. The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place.
9. The proposed use or activity is inconsistent with the type of Public Facility.
10. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the Public Facility, or City employees or the public.
11. The Responsible Parties have not complied or cannot comply with applicable permit requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services.
12. The use or activity intended by the applicant is prohibited by law, by this code and ordinances of the City, by the regulations of the Parks and Recreation Director or by the regulations of the Deputy City Manager designated by the City Manager.
13. The conduct of the Special Event will substantially interrupt the safe and orderly movement of aerial navigation, or of public transportation or other vehicular and pedestrian traffic in the area of the Special Event; or will cause irresolvable conflict with construction or development on Public Property or at a Public Facility where the Special Event is held; or will close streets or unreasonably restrict the number of traffic lanes during peak commuter hours on weekdays so as to cause unsafe conditions for the public; or the expected attendance at the event will exceed the lawful capacity of the Public Facility under the City's fire code; or the parking available at the Public Facility will be inadequate to accommodate the expected attendance at the event.

**Section 2.05    Processing of Permit Application**

- A.    Security deposit. Applications for permits for Special Events that require payment of a security deposit, insurance proof, documentation of approval or permits from other governmental entities, or compliance with other terms or conditions, will be reviewed and, if the application otherwise conforms to all other requirements, a conditional approval will be issued. No permit shall be issued unless the security deposit is paid or waived within the times prescribed by the Deputy City Manager designated by the City Manager. If, within the time prescribed by the Deputy City Manager designated by the City Manager, any required security deposit is not paid, or an insurance certificate evidencing the requisite insurance is not filed with the City, or the approvals or permits of other governmental entities have not been met, the conditional approval will automatically expire, the application for permit will be deemed denied and no written notice of denial will be required.
- B.    Contents of notice; grounds for denial. Notice of denial of an application for permit shall clearly set forth the grounds upon which the permit was denied and, where feasible, shall contain a proposal by the City for measures by which the applicant may cure any defects in the application for permit or otherwise procure a permit. Where an application for the same time and place has been received, and a permit has been or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular area, the City shall propose an alternative place, if available for the same date and time, or an alternative date and time, if available for the same place. To the extent permitted by law, the City may deny an application for permit if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant.
- C.    Notice of extended review of denial or issuance of permit. Written notice of denial or notice of extension shall be served on the applicant by personal

delivery, or by deposit in United States mail, with proper postage prepaid, to the name and address set forth on the application for permit.

- D. Amendment or revision of applications. Any amendment or revision of an application or permit shall for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which the City shall grant or deny the application for permit and serve notice of such granting or denial shall be computed from the date of the amendment or revision.

**Section 2.06 Conduct of Special Events Regulated; Non-Transferability of Permit**

Special Events permits are applicant and place specific. No permit or conditionally approved permit application may be transferred from person to person or place to place. Rain dates and/or rain locations will be at the discretion of the City Manager or his designated Deputy City Manager.

**Section 2.07 Exemptions from Permit Requirements**

- A. Exemptions. The following activities shall be exempt from the permit requirements of this chapter:
1. any event, gathering, entertainment, cultural event, convention or exposition at the Arlington Convention or Community Center.
  2. any event at any church or religious institution, university, college, junior college, high school, middle school or elementary school stadium or gymnasium by the owners of these facilities;
  3. any activity on private property unless the activity will occupy adjacent public streets or Public Property during the activity; or
  4. any parade event or park event or other event for which a permit is issued under the Parks and Recreation Chapter, Construction Chapter or Streets and Sidewalks Chapter, unless the event is expected to draw 500 or more people at any time as participants or spectators.

- B. Public Safety Plan. Notwithstanding the preceding exemptions from event permit requirements in this section, any Special Event shall comply with the public safety standards for Special Events contained in this chapter and in the Executive Public Safety Special Events Planning Guideline.

(Adopt Ord 09-011, 3/24/09)

**ARTICLE III**

**PUBLIC SAFETY STANDARDS FOR SPECIAL EVENTS**

**Section 3.01 Authority**

The Police and Fire Chiefs will determine Public Safety measures that exceed the minimum standards set forth in this section based on specific event threat and risk factors. The Chiefs are the approving authorities for all Public Safety Plans required by this chapter and the Executive Public Safety Special Event Planning Guideline. Elements identified in the guideline are not intended to limit or restrict the ability of the Police Chief or Fire Chief to manage or define public safety resources preparation, activation, deployment and recovery based on the threat and risk of each Special Event

**Section 3.02 Public Safety Services**

The following requirements for public safety will be observed at all Special Events:

- A. Police. The City police department shall be the provider of emergency command and control and Public Safety Special Services at Special Events in accordance with the public safety standards in this chapter and the Executive Public Safety Special Events Planning Guideline. If the Responsible Parties for a Special Event wish to use private sector entities for personal safety or property security at Special Events, such entities will be supplemental or in addition to the services provided by the City police. The Responsible Parties for a Special Event may provide non-city licensed peace officers for personal safety and property security.
- B. Fire. The City fire department shall be the provider of fire protection services including emergency management, NIMS and other emergency command and control, fire prevention, inspection, suppression, rescue, explosive ordnance disposal, hazardous materials response, public safety dispatching and other Public Safety Special Services for Special Events in accordance with the standards in this chapter and the Executive Public Safety Special Events Planning Guideline. Emergency medical services accessed by the

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public 911 System, including transportation shall be provided by the City fire department and the City's sole authorized ambulance contractor in accordance with the City ambulance contract and City ambulance service ordinance.

- C. Medical services. Special Event medical services, except for patient transportation, may be provided by the Special Event Responsible Parties. All providers of event medical services are required to have appropriate training and education on the City emergency medical system's medical protocols, must provide patient care that is consistent and interoperable with the City's emergency medical providers, and must be certified by the State of Texas in accordance with law. Any medical services furnished must be under the supervision of a Medical Director.
- D. Public safety plan. For any Special Event at which attendance and participation is expected to exceed 50,000 persons, the City shall develop a written, coordinated Public Safety Plan in collaboration with the Special Event Responsible Parties. For any Special Event at which attendance and participation is expected to be less than or equal to 50,000 persons, Responsible Parties shall develop a written, coordinated Public Safety Plan for City consideration. Based on threat and risk assessment, the City reserves the right to write the Public Safety Plan for events with participation less than or equal to 50,000.

All Special Event Public Safety Plans shall include without limitation, procedures, equipment, personnel and safeguards for:

- Determining and Acquiring the Security and Life Safety Workforce
- Communications and Communication Technology
- Access Control: Screening and Physical Security
- Transportation/Traffic/Parking
- Intelligence
- Credentialing
- Administrative and Logistics Support
- Protecting Critical Infrastructure and Utilities
- Fire/EMS/Medical Care
- Hazardous Materials/Weapons of Mass Destruction: (CBRNE) Detection and Consequence Management

- Tactical Support and Crisis Management
  - Public Information and Media Relations
  - Training
  - Planning for and Managing Demonstrations
  - Sound mitigation
- E. Public safety services limitation. No Special Event shall be scheduled in the City at the same time as another Special Event or a combination of parade, park, street use events and other Special Events if the police or fire or medical resources required for that event are so great that the deployment of public safety services for the proposed Special Event would have an immediate and adverse effect upon the welfare and safety of persons and property in the City. The City shall determine an appropriate separation period between Special Events when multiple Special Events are requested to occur in one day. The City will give consideration to type of event, traffic, parking and public safety concerns to determine if the City will allow multiple Special Events to occur in a single day.

**Section 3.03 Public Safety Emergency Medical and Fire Protection and Rescue Standards**

- A. Emergency medical personnel. Responsible Parties for Special Events are required to have emergency medical services, including transportation, in accordance with the City ambulance services chapter and shall arrange for emergency medical services, including transportation, based upon projected attendees and participants as determined by the Executive Public Safety Special Event Planning Guideline

In addition to on site medical personnel, Special Event Responsible Parties shall provide Stand-By Ambulance Coverage using Arlington EMS System ambulances in accordance with the City ambulance service ordinance. The number of Stand-By ambulances will be determined by the Fire Chief in accordance with this chapter and the Executive Public Safety Special event Planning Guideline, threat and risk and best practices. The stand-by ambulance(s) rates are identified in the ambulance service contract with the City.

- B. Private medical services. Responsible Parties for Special Events may elect to provide basic medical

services. Medical services provided by the Responsible Parties for the Special Event shall comply with the public safety standards set forth in this chapter and Executive Public Safety Special Event Planning Guideline. Rescue services are to be provided by the City fire department. Medical services for patients must be provided at the site of the Special Event in accordance with City emergency medical system protocols. Should a person experience a serious or life threatening emergency at the Special Event, the Responsible Party shall comply with the directions and orders of the City fire department or City's ambulance contractor or Medical Director to insure the rapid treatment and transport of the patient. Emergency medical personnel must be deployed in such a way that provides for arrival of basic life support or CPR-trained personnel with defibrillation capability at a patient's side within 3 to 5 minutes of a request for aid 90% of the time.

C. Fire services. Fire protection and rescue services including emergency management, emergency command and control, fire prevention, inspection, suppression, rescue, explosive ordnance disposal, hazardous materials response, public safety dispatching and other fire department Public Safety Special Services shall be provided by the City fire department. City fire department procedures and the National Incident Management System standards apply to all public safety operations. Every designated fire department team shall have a designated supervisor within the team. When teams are not implemented, there shall be at least one City fire department supervisor for every six City fire department personnel or team.

D. Public safety fire special services. The number of fire Public Safety Special Services personnel/teams provided at Special Events shall be determined by the Fire Chief based on type of event, attendance, threat and risk, best practices, the standards set forth in this ordinance, the Executive Public Safety Special Event Planning Guideline and other city ordinance requirements.

The Fire Chief shall address the following personnel/team needs for Special Events:

- Life Safety code compliance
- Fire Suppression



- Explosive Ordnance Disposal
- Rescue
- Incident Command (NIMS)
- Medical Control/Care
- Hazmat (CBRNE)
- Public Safety Dispatching
- Emergency Management
- Special Considerations

**Section 3.04 Police Public Safety, Personal Security, and Property Safety Personnel Standards**

- A. Responsible Parties for Special Events shall arrange for City police department personnel based upon projected attendees and participants according to the Executive Public Safety Special Event Planning Guideline.
- B. In addition to other requirements in this chapter and the Executive Public Safety Special Event Planning Guideline, if Public Safety requires traffic control personnel to regulate or control outdoor vehicular or pedestrian traffic at a Special Event, the Responsible Parties shall be responsible for the cost of providing such additional personnel for each intersection or other area that requires such staffing. Considerations for traffic officer intersection assignment include, without limitation: amount and speed of traffic, area traffic violations and reported criminal activity, pedestrian traffic, security concerns, intersection control issues and officer relief issues.
- C. In addition to and as a part of the above City police department personnel standards and National Incident Management System standards apply to all Public Safety operations. Every designated police department team shall have a designated supervisor within the team. When teams are not implemented, there shall be at least one City police department supervisor for every six City police department personnel in accordance with the Executive Public Safety Special Event Planning Guideline.
- D. Police public safety special services. The number of police Public Safety Special Services personnel/teams provided at Special Events shall be determined by the

Police Chief based on type of event, attendance, threat and risk, best practices the standards set forth in this ordinance, the Executive Public Safety Special Event Planning Guideline and other City ordinances or law.

**Section 3.05 Costs for Resources Provided by the City**

- A. Rates of reimbursement. Responsible Parties shall reimburse the City for the cost of police, fire and non-public safety personnel provided by the City of Arlington for Special Events. The City non-holiday rate of reimbursement shall be one and one-half times the current regular prevailing hourly rates, plus benefit costs incurred by the City, pursuant to current City employee pay schedules for such City employees. The City holiday rate of reimbursement shall be two times the current regular prevailing hourly rates, plus benefit costs incurred by the City, pursuant to current City employee pay schedules for such City employees. Responsible Parties shall reimburse the City within 30 calendar days of the respective Special Event date.
- B. Notification of additional resources required. Thirty days prior to any Special Event, the Responsible Parties will provide information to the City about any non-City public safety resources utilized. Responsible Parties shall reimburse the City in accordance with this chapter for any additional City resources provided by the City that are required to achieve the approved plan.

**Section 3.06 Standards for Sanitary Facilities, Food Service Inspections, Traffic Management, Non-public Safety Personnel Cost, Prohibition of Glass Containers, Recycling, and Equipment Costs**

- A. Sanitary facilities, in the form of portable toilets, shall be provided by the Responsible Parties to supplement the available facilities at any given venue in light of the projected number of attendees and participants. The facilities shall comply with applicable health laws and regulations and the Executive Public Safety Special Event Planning Guideline.

- B. Food service establishments, booths and dispensing locations associated with Special Events shall be in compliance with City Health Codes and all other applicable laws and regulations.
- C. All Special Events shall have a Traffic Management Plan contained within the Public Safety Plan.
- D. The Responsible Parties shall be responsible for costs the City incurs for non-public safety personnel necessary for traffic management, code enforcement, set up for the event, maintenance during and clean up of sanitary facilities after the event in accordance with the prevailing regular rates plus applicable overtime, plus benefit costs incurred by the City, pursuant to established City employee pay schedules.
- E. On the Special Event premises, no person shall possess any container made of glass in an open area.
- F. All Special Events shall have a plan for the recycling of waste materials and products associated with the event. Recycling bins for paper, aluminum, plastic and other recyclable items shall be provided in order to minimize waste associated with all Special Events.

Trash and Recycling - To insure the health, safety and welfare of the community, the Special Event Responsible Party is required to control litter and provide trash collection during the course of the entire event. Trash and Recycling plans shall include:

- An estimate of trash volume for entire event
- A plan to address litter control and timely haul off of collection containers
- Steps taken to insure access to recycling for plastic, aluminum, and other recyclable trash elements
- The estimated amount of trash that will be recycled
- The planned placement of trash collection containers at the event location and a hauling schedule

All collection containers will be furnished by the City Collector. In the event the City Council has not designated a City Collector, the waste hauler must be approved by approval authority identified in this ordinance.

- G. The Responsible Parties shall be responsible for equipment costs the City incurs for the Special Event.

**Section 3.07 Interoperable Communication**

Responsible Parties shall provide communication equipment for the purpose of amplifying the City's public safety transmission signals if City radio signals are impeded. The Responsible Party's communication equipment shall be designed and configured to ensure compatibility with the City's communication systems should there be a need for Interoperability with public safety agencies for Special Event management or in the event of an emergency condition. Responsible Parties for Special Events shall insure that there is no obstruction or interference with the transmission of City public safety communication systems.

**Section 3.08 National Incident Management Systems (NIMS) Compliance**

- A. Special Event personnel serving in a security or safety capacity shall have training in the use of NIMS. NIMS training requirements for Responsible Parties personnel will be based on responsibility for onsite security and onsite safety duties as established in the applicable Public Safety Plan. In the event of an emergency, Responsible Parties personnel will be supplemental to the services provided by the City police and/or fire department.
- B. All public safety employees, regardless of jurisdiction, will be NIMS compliant and will attend any related Arlington specific training as required by the Police Chief and/or Fire Chief.

**Section 3.09 Automated External Defibrillators**

Automated External Defibrillators shall be located strategically throughout Responsible Parties' facility and made accessible to medical personnel and non-medical personnel that may be trained in the use of an AED pursuant to Chapter 779 of the Texas Health and Safety Code. Emergency medical personnel must be deployed in such a way that will provide for the arrival of basic life support or CPR trained personnel with defibrillation capability at a

patient's side within 3 to 5 minutes of a request for aid  
90% of the time.

(Adopt Ord 09-011, 3/24/09)

**ARTICLE IV**

**APPEAL**

**Section 4.01 Procedures for Appeal**

- A. Review by Deputy City Manager designated by the City Manager:
1. Any applicant who is denied a permit, or a permittee who has had all or a portion of its security deposit retained because it was assessed damages or costs pursuant to this chapter (an "appellant") may, within five business days of the service of notice of such determination, file a written appeal from such determination with the Deputy City Manager designated by the City Manager.
  2. An appellant may appeal the permit application deadline, permit fee, security deposit or other applicant requirement or cost established by this chapter or the Executive Public Safety Special Event Planning Guideline if the applicant demonstrates that the Special Event proposed is exclusively or primarily for speech or other expressive activity protected by the First Amendment to the United States Constitution and that the application of the permit fee, security deposit or other expense is unreasonably burdensome or cannot be met due to insolvency or indigence.
  3. The Deputy City Manager designated by the City Manager shall have five business days from the date on which the appeal was received in which to serve upon the appellant a notice that the appeal was affirmed, modified or reversed.
  4. The notice to appellant shall be deemed served upon the appellant when it is personally delivered or when it is sent by United States mail, with proper postage prepaid, to the name and address set forth on the application for permit.
- B. Form of appeals. Any appeals filed pursuant to this chapter shall state succinctly the grounds upon which it is asserted that the determination should be

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modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the City, and any other papers material to the determination.

**Section 4.02    Final Decision**

The appellant, within five business days after denial or modification of his or her appeal by the Deputy City Manager designated by City Manager, may appeal that denial to the City Manager for a final decision based upon the documents and circumstances presented within five business days of receiving the appeal. Judicial review of any such final decision may be obtained through the filing of an appropriate action with a court of competent jurisdiction.

(Adopt Ord 09-011, 3/24/09)

**ARTICLE V**  
**ENFORCEMENT**

**Section 5.01 Enforcement and Penalty**

- A. It is an offense for any person to:
1. Conduct, stage or promote a Special Event without a permit unless exempted in accordance with this Chapter.
  2. Knowingly make a false statement in a Special Event application.
  3. Violate any provision of this chapter or any other City ordinance.
- B. Each offense is punishable by a fine not to exceed:
1. \$2,000 for a violation of a provision of this chapter or violation of a requirement of a Special Event permit governing fire safety, zoning or public health and sanitation, including dumping of refuse; or
  2. \$500 for all other violations of this chapter or other violations of the requirements of a Special Event permit.

**Section 5.02 Revocation or Suspension of Permit**

The Deputy City Manager designated by the City Manager, after consultation with appropriate city staff including without limitation, the Police Chief or his designee, Fire Chief or his designee, the City Attorney or his designee and the Public Works and Transportation Department director or his designee, may suspend or revoke a permit issued under this chapter for violation of this chapter; for violating any federal, state or local laws or ordinances during the Special Event; or for making any material false representation in an application for a permit or for an exemption certificate. In the event of suspension or revocation, the appeal provisions in this chapter shall apply, commencing with the date the suspension or revocation notice is provided to the applicant.

(Adopt Ord 09-011, 3/24/09)



**ARTICLE VI****SPECIAL PROVISIONS RELATED TO SPEECH AND PUBLIC ASSEMBLY****Section 6.01 Purpose and Intent**

The Arlington City Council recognizes and supports the public's right of assembly and free speech and to utilize designated public facilities for such purposes. At the same time, the City has an important and compelling governmental interest in protecting property, public safety, health, and welfare, and controlling the use of streets and other public facilities and venues. This Article seeks to accommodate public rights of speech and assembly consistent with that governmental interest by establishing procedures, terms, and conditions for use of public areas and facilities for such purposes when an applicant indicates that compliance with the standard permit application process, review process or permit requirements would substantially burden protected rights.

**Section 6.02 Applicability**

- A. This article applies to all permits required by the Code of the City of Arlington, Texas, 1987, for events involving public assembly, free speech, or the use of designated public facilities for such purposes when an applicant indicates that compliance with the standard permit application process, review process or permit requirements would substantially burden protected rights. In the event of a conflict between this Article and any other provision in the Code of the City of Arlington, Texas, 1987, this Article shall control.
- B. Permits are not required for:
1. A governmental entity acting within the scope of its functions; or
  2. Spontaneous events involving public assembly and/or free speech occasioned by news or affairs coming into public knowledge within two days prior to such event, provided that:
    - a. The event occurs on private property or a public area in a manner that does not unduly

disrupt or inconvenience the public in the use of such area; and

- b. The organizer or sponsor thereof provides written notice to the Administrator and Police Chief, or his designee, at least 24 hours prior to the start of the event, or such other prior notice as may be reasonable under the circumstances.

**Section 6.03 Definitions**

"Administrator" means the person designated by the City Manager to administer this Article.

"Applicant" means an individual seeking a permit required by the Code of the City of Arlington, Texas, 1987 for events involving public assembly, free speech, or the use of designated public facilities for such purposes; who has indicated that compliance with the standard permit application process, review process and/or permit requirements would substantially burden protected rights.

"City Code" means the Code of the City of Arlington, Texas, 1987.

"Permit" means written permission for an event issued pursuant to this Article or required by any other provision of the City Code, regardless of whether that terminology is used by the other provision of the City Code.

"Permitee" means an individual who has been issued a permit under this Article.

**Section 6.04 General Standards and Procedures**

- A. Decision-Making Unrelated to Content of Expression. To achieve the purposes of this Article without undue interference with protected rights of speech and assembly, decisions to issue, deny, or conditionally approve permits shall not be based on the content of a message associated with the event absent a compelling governmental interest. Notwithstanding that general standard, protections otherwise applicable to speech and assembly are limited and may not extend to speech or assembly that is intended to or has the result of causing public alarm, disruption, falsehood, or other

form of expression that is not protected under the laws or constitution of Texas or the United States.

- B. Time, Place and Manner Controls. This Article seeks to impose reasonable time, place and manner controls in an appropriate and limited manner upon events and facility uses for which permits are required. This Article shall be administered in a manner that seeks to allow for expression, assembly, and the exercise of religious rights in accordance with applicable constitutional and statutory limits and controls.
- C. Application Requirements. The standard application requirements set forth in the City Code for the permit sought shall be required under this Article, subject to the following conditions or as otherwise amended by this Article to avoid a substantial burden on protected rights. The City shall require information related to appropriate factors such as public safety, and in that regard may make reasonable inquiry into purpose of assembly and speech and manner in consonance with peace and good order, where such request is not intended to interfere with expression, and where the purpose of the event might have a bearing on the precautions that should be taken by police authorities to protect those engaged in the event and the general public. Inquiry into the purposes of the assembly shall not be used for grounds to deny a permit nor for suppression of generally lawful activity.
- D. General Application Time Frame. Except for applications where a modification has been granted under Section 6.05, applications for permits under this Article shall be filed with the Administrator within the timeframe stated in the City Code for the permit sought. In addition, all review and action timeframes set forth in the City Code shall apply unless a modification has been granted under Section 6.05 or unless otherwise amended by this Article.
- E. Internal Appeal Step. At any point in the permit application and approval process, an applicant who feels aggrieved or substantially and adversely affected by compliance with this Article may request review through an intermediate appeal procedure under Section 6.10.

**Section 6.05 Modified Application or Expedited Application Review**

Upon request of an applicant, the Administrator may agree to a modified application process or to an expedited permit application review when the applicant indicates that compliance with the standard permit application or review process: (1) is not required due to size, location, duration or other appropriate factors indicating that public safety, welfare, and convenience would not be affected by expedited review; or (2) would substantially burden protected rights, including speech and assembly, as to matters of public concern and the modified application or expedited review process would allow reasonable review to address substantial matters of public safety, welfare, and convenience.

**Section 6.06 Fees**

- A. The standard non-refundable application processing fee required in the City Code for the permit sought shall also be required of an applicant under this Article. Such fee is required to cover the administrative costs of processing the permit application and shall be paid to the City by the applicant when the application is filed.
- B. The City may require the applicant to pay rental fees, service charges, or costs incurred by the City in accordance with this Article.

**Section 6.07 Police Protection; Public Works and Other Expenses**

- A. Police Protection.
  - 1. If possible, without disruption of ordinary police services or compromise of public safety and welfare, regularly scheduled on-duty police personnel shall cover the event. The Administrator shall seek review by the Police Chief, or his designee, of any application which might require additional police personnel.
  - 2. When reviewing an application, the Police Chief, or his designee, shall determine whether and to what extent extraordinary use of public resources is reasonably necessary for the event for traffic

control and public safety and welfare, including public convenience. The Police Chief, or his designee, shall base this decision on relevant criteria including, but not limited to, the size, location, duration, time and date of the event; the expected sale or serving of alcoholic beverages; the number of streets and intersections blocked; threat and risk assessments; best practices; and the need to detour or preempt public travel and use of streets and sidewalks. Extraordinary use of public resources is the use of public resources to an extent that rises above the level of reasonable and prudent use of public resources in the normal course of business such that:

- a. the normal delivery of public services is hampered or delayed to other parts of the City, or
  - b. the City incurs a substantial or unreasonable interruption of the delivery of service to other parts of the City, or
  - c. the City incurs a substantial or unreasonable financial cost as a result of the extraordinary use of public resources.
3. The speech content of the event shall not be a factor in determining the amount of police protection necessary, except when the applicant's speech is determined to have reasonable potential to cause, or will have the result of causing, public alarm, disruption, falsehood, or which will constitute any form of expression that is not protected under the laws or constitution of Texas or the United States. When an applicant is required to pay the costs of additional police protection as a condition of approval of the permit, such costs shall only be based upon needs directly associated with the event and not on the basis of possible disruption of the event by protestors or other persons who might be opposed to the speech or assembly.
4. If additional police protection for the event is deemed necessary by the Police Chief, or his designee, he shall so inform the Administrator and applicant. The applicant shall be required to pay

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the cost of providing such additional police protection deemed necessary by the Police Chief, or his designee, as a condition of approval of the permit.

- B. Public Works and Health. In the same manner, the Administrator shall determine when additional public works-related actions such as lighting, refuse receptacles and pick-up, sanitary facilities, traffic control signs, devices, or personnel are necessary for the proposed event. The applicant shall be required to pay the costs of providing such additional services as a condition of approval of the permit.
- C. Other Expenses. In circumstances where the event itself may be expected to cause the City to incur additional, extraordinary expenses, other than those identified above, the Administrator shall identify such expenses and the basis for determining them to be extraordinary. The applicant shall be required to pay the costs of such expenses as a condition of approval of the permit.

**Section 6.08 Requirements for Surety for Performance**

To avoid interference with protected rights of speech and assembly, when the standard permit requirements set forth in the City Code for the permit requested require imposition of surety for performance (including but not limited to insurance, bonding, or monetary deposits) an applicant under this Article shall only be required to provide surety based upon needs directly associated with the event and not on the basis of possible disruption of the event by protestors or other persons who might be opposed to the speech or assembly. The Administrator may waive such surety requirements in the interest of permitting protected speech and assembly to occur when an applicant provides evidence of inability to obtain surety.

**Section 6.09 Standards for Action on Applications**

- A. Prior to action on an application the Administrator shall provide notice of the application to the Police and Fire Chiefs and the Director of Public Works and Transportation. In determining whether to approve or deny an application the Administrator shall consider the following factors:

1. The potential for the event to substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location.
  2. The potential for the event to require the diversion of so great a number of municipal police officers to properly police the event as to prevent normal police protection of the City.
  3. The potential for concentration of persons, animals, and vehicles at the event to unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the event.
  4. The potential for the conduct of the event to cause injury to persons or property.
- B. A permit shall be issued, unless the Administrator finds that:
1. The application, including any required attachments and submissions, is not fully completed.
  2. Conduct of the event will unduly inconvenience either the public in using public areas normally open for general public use or the City in the conduct of governmental operations.
  3. Adequate sanitation and other required health facilities are not available in or adjacent to the area in which the event will be held and/or arrangements for such have not been made.
  4. There are not sufficient parking places near the site of the event to accommodate the number of vehicles reasonably expected.
  5. The applicant has not paid or provided for payment of expenses or costs required under Section 6.07 or other provisions of this Article.
  6. The applicant has not provided the required surety for performance of obligations or obtained a waiver from the Administrator for such requirements under Section 6.08.

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7. Another event(s) is scheduled elsewhere in the City and municipal resources (including but not limited to law enforcement, fire, or public works personnel) required for the event(s) are so great that their deployment would have an immediate and adverse effect upon the welfare and safety of persons and property.
  8. The event proposed by the applicant would present an unreasonable danger to the health or safety of the applicant or other members of the public.
  9. The applicant is legally incompetent to contract or to sue and be sued.
  10. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged public property and have not paid in full for such damage, or has other outstanding and unpaid debts to the City.
  11. The event proposed by the applicant would conflict with an event that has already applied for a permit for the same time and place.
  12. The event proposed by the applicant is prohibited by law.
- C. The Administrator shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this Article based upon political, religious, ethnic, race, disability, sexual orientation or gender-related grounds or other criteria that would constitute a violation of state or federal law.
- D. The Administrator may authorize the conduct of the event at a date, time, location, or route different from that proposed by the applicant. An alternate permit shall conform to the requirements of, and shall have the effect of, a permit issued under this Article.
- E. Unless otherwise provided in this Article or agreed to by the applicant, the Administrator shall act on an application within the time specified in the City Code for that type of permit sought. The Administrator shall notify the applicant of action on the application either by personal delivery or certified mail. If the



application is denied, approved with conditions, or otherwise modified, the notice shall include a statement of the reasons for such action.

- F. A person aggrieved and directly affected by a decision of the Administrator under this section may file an interim or final administrative appeal pursuant to Section 6.10.

**Section 6.10 Interim and Final Appeals**

- A. An applicant or other person who is directly affected by a decision of the Administrator under this Article may file an appeal of the decision as provided in this section.
- B. Interim Appeal. Prior to a final decision by the Administrator, an applicant who claims that delay, imposition of conditions, or other action by the City violates any applicable law, or unreasonably and improperly interferes with constitutionally protected rights, may file an interim appeal as follows:
1. The applicant shall notify the Administrator in writing of the claim specifying in detail the basis for the claim. The Administrator shall review the notice and determine if administrative action will adequately resolve the problem.
  2. If the applicant is not satisfied by such administrative action, the applicant may file a written appeal within 48 hours to the Deputy City Manager designated by the City Manager to administer appeals under this Article, with a copy to the City Secretary specifying the grounds for the appeal. The Deputy City Manager shall review the appeal to determine if it will hear the matter or if it determines that grounds for appeal are not properly set forth.
  3. If the Deputy City Manager determines that the appeal will not be heard, it shall notify the applicant within 24 hours of such decision. If the appeal proceeds, the Deputy City Manager shall schedule a hearing on the matter within five days with such notice to the applicant and public as is deemed appropriate under the circumstances. At the hearing, the Deputy City Manager shall hear

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the applicant, Administrator, and such other persons as may be allowed to speak. Within 48 hours after the hearing, the Deputy City Manager shall issue its decision in writing and shall so notify the applicant.

- C. Appeal of Final Action. The applicant or any person directly affected by final administrative action on an application may file a written appeal with the City, with a copy to the City Secretary not later than five days after the final action. The appeal shall state with specificity the grounds for the appeal. The Deputy City Manager may deny an appeal without hearing if it determines on the face of the appeal that it has no merit and shall so notify the appellant and other directly affected parties within 48 hours after such determination. If the appeal proceeds, the Deputy City Manager shall schedule a hearing within five days. The appeal hearing shall be limited to the grounds stated in the appeal unless the Deputy City Manager for good cause determines to hear other issues or concerns. The appellant, applicant (if not the appellant), the Administrator and other persons directly affected may speak or submit evidence at the hearing. The Deputy City Manager may determine who is permitted to participate in the hearing. The Deputy City Manager shall issue its decision on the appeal, stating the reasons for its decision, within five days after the hearing.

**Section 6.11 Participation in Events; Restrictions**

- A. Participation. An event for which a permit is issued to a private entity that is not part of the local government of City or an event that is not sponsored directly or indirectly by the City shall not be deemed state or governmental action. Accordingly, the City shall not compel or otherwise direct the inclusion or exclusion in the event of any group or class of individuals.
- B. Restriction on Participation. An event subject to this Article may be limited as to the number of participants in the interest of safety, health, public order, and adequacy of facilities and security. If the number of participants is so limited, the permit shall specify an objective manner in which participants are selected and shall provide an expedited manner of appealing any

exclusion in accordance with Section 6.10. The number of participants also may be restricted by order of the Administrator or Police Chief, or his designee, or Fire Chief, or his designee, even if not limited in the permit, based on considerations of public health, safety, and welfare.

#### **Section 6.12 Cost Recovery**

If a permittee fails to pay costs or take actions required under this Article, the City, after requesting the permittee for payment, may draw upon any security provided under Section 6.08 or may seek to recover such costs from the permittee or other responsible person by appropriate legal action. If the City prevails in any such action for recovery, it shall be entitled to reimbursement of any costs incurred in seeking such recovery, including court costs and attorneys' fees. Cost recovery from permittees and participants shall be focused upon the conduct of the permittees and authorized participants and not on conduct of observers or others over whom permittee cannot reasonably be expected to exercise control.

#### **Section 6.13 Revocation or Suspension of Permits**

- A. The Administrator may suspend or revoke any permit issued under this Article upon finding any violation of this Article, the terms or conditions imposed in the permit, or for any other action deemed detrimental to public health and safety. Such revocation shall take effect immediately, and the Administrator shall promptly notify the permittee of revocation. After revocation, the permittee may not conduct the event, or if the event has commenced, shall immediately cause the event to be terminated in a safe, proper manner.
- B. If a public emergency arises where municipal resources required for the emergency are so great that deployment of municipal personnel, equipment or services for an event would have an immediate, adverse effect upon welfare and safety of persons or property, the Administrator may suspend or revoke the permit and the permittee shall comply with such directives as the Administrator may impose.

**Section 6.14    Enforcement**

This Article may be enforced by injunction, restraining order, declaratory relief or such other order as may be imposed by a court with appropriate jurisdiction.

**Section 6.15    Judicial Review**

Any person aggrieved by a decision under this Article may appeal from that decision to a court with appropriate jurisdiction in accordance with applicable statutes or court rules. Any person who is granted standing to file internal appeals pursuant to Section 6.10 shall first exhaust such administrative remedies prior to seeking judicial relief.

(Amend Ord 10-104, 12/14/10)

Ordinance No. 09-011

An ordinance adding the "Special Events" Chapter to the Code of the City of Arlington, Texas, 1987, through the addition of Article I through V; containing findings and other provisions relating to the foregoing subject; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions, providing for publication and becoming effective ten days after first publication

WHEREAS, the City of Arlington is a dynamic, developing community in which an increasing amount of entertainment, social, recreational, sporting and other activities and events are becoming available that enhance the quality of life for its citizens and visitors; and

WHEREAS, as the City continues to grow and prosper, more of these types of activities and events are expected to occur, which will require careful and effective planning and coordination to provide necessary public health and safety services and facilities and ensure safety and security for the participants and spectators to allow enjoyable, successful events and to avoid undue disruption of ongoing business, residential, recreational, social and other endeavors in the community; and

WHEREAS, in light of the foregoing, the City's existing laws regarding such events and activities need to be updated to provide a more comprehensive, systematic approach to planning and permitting such events and activities to allow proper allocation and provision of essential but limited public health and safety services and careful expenditures and protection of public funds and resources in light of anticipated expanding

demands upon them that are likely to continue;  
NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
ARLINGTON, TEXAS:

1.

That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

2.

That the "Special Events" Chapter of the City of Arlington, Texas, 1987, is hereby adopted to read as follows:

#### **ARTICLE I**

#### **PURPOSE, FINDINGS AND INTENT; DEFINITIONS; ATTENDANCE ESTIMATES**

#### **Section 1.01 Purpose, Findings and Intent**

- A. The purpose of this chapter is to ensure citizen and visitor safety by establishing public safety standards for Special Events. This chapter further provides for Special Event safety equipment and safety system Interoperability, event sanitation and health, availability of Automated External Defibrillators, medical care and fire rescue, law enforcement, public safety event plans and appropriate traffic management plans. It is established that public safety response and control is set in accordance with the National Incident Management System for the accomplishment of responsibility associated with prevention, preparedness, response, recovery and mitigation of all major hazard situations. This Special Event chapter will facilitate the promotion of City events and activities and stimulate significant economic growth in the City.
- B. The Arlington City Council finds that:

1. Special Events offered to the general public or a substantial segment of the public often attract a large gathering of people, which may cause adverse public health and safety conditions requiring municipal regulation to assure adequate sanitation and sewage disposal facilities, police services, fire and emergency medical rescue personnel and equipment, parking, traffic management and control, crowd control and other regulations in the interest of public safety and public health.
  2. Special Event Public Safety Plans originated, coordinated, developed and finalized well in advance of a Special Event that detail police, fire, sanitation, emergency medical, emergency management and traffic management safety resources are rational and reasonable to protect citizen and visitor safety and welfare.
  3. The public safety specifications in this chapter are reasonable, public safety industry based standards following: Emergency Management Institute recommendations, the United States Department of Justice Law Enforcement Guidelines developed by the Institute for Law and Justice and Mass Gathering/Special Event industry best practices.
- C. It is the intent of the Arlington City Council that this chapter be enacted to protect and promote the health, welfare and safety of citizens and visitors to the City. It is the further intent of the City Council that this chapter be construed liberally in favor of protecting and promoting the health, welfare and safety of the citizens and visitors to the City.

## **Section 1.02 Definitions**

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

"Automated External Defibrillator" or "AED" means a heart monitor and defibrillator that meet the requirements of the Texas Health and Safety Code and applicable federal law.

"CBRNE consequence control plan" means the chemical, biological, radiological, nuclear or explosive consequence control plan required for all Special Events.

"City" or "city" means all areas within the corporate limits of the City of Arlington, Texas.

"City Council" means the Arlington City Council.

"City Manager" means the Chief Executive Officer of the City of Arlington, Texas.

"City Public Safety" means police, fire, emergency medical, emergency management or other City of Arlington group responsible for Public Safety Plans, Public Safety Basic Services and Public Safety Special Services.

"Executive Public Safety Special Event Planning Guideline" means the document that provides guidelines for scalable Public Safety Plans and is utilized to communicate specific roles and responsibilities of City departments relating to Special Events held in the City of Arlington with consideration for the type of event, threat and risk.

"Interoperability" means the direct interoperable radio and other types of communications capability established by Special Event Responsible Parties that conforms with existing City public safety emergency communication systems.

"Medical Director" means the Responsible Party representative providing medical direction and management of medical services associated with a Special Event or a governmental medical authority such as the City of Arlington emergency medical system Medical Director.

"NIMS" means the National Incident Management System adopted by City Council ordinance 05-077 that provides a consistent approach to the effective management of situations involving natural disasters, man-made disasters or terrorism and contains a practice model for the accomplishment of the responsibilities associated with



prevention, preparedness, response, recovery and mitigation of all major and national hazard situations.

"Non-City Peace Officer" means a NIMS qualified Texas licensed peace officer not employed by the City of Arlington.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind, but does not include the City of Arlington or its departments, officials, or employees.

"Public Facility" means an outdoor or indoor park or recreational facility, and streets, sidewalks and rights-of-way that are owned, leased, operated, maintained or controlled by the City.

"Public Property" or "public property" means property that is owned, leased, operated, maintained or controlled by the City.

"Public Safety Basic Services" means police standard law enforcement operations, traffic control, fire suppression/rescue and emergency medical service first response.

"Public Safety Plan" means a plan that is developed to address specific public safety issues for Special Events. Included in the Public Safety Plan are numbers of public safety personnel required, types of public safety services provided, safety and response procedures, traffic management plan and other planning elements to provide for the security and safety of attendees and Special Events Responsible Parties.

"Public Safety Special Services" means services provided by police and fire requiring specialized training and knowledge. Examples include without limitation: SWAT, undercover operations, motorcycle officers, public safety tactical communications and dispatching, emergency management, NIMS execution, command and control, CBRNE consequence control plan, fire prevention, inspection, technical/specialty rescue, explosive ordnance disposal and hazardous materials response.

"Rescue Service" means the public safety service for the extraction, or movement of individuals from a dangerous, serious or life threatening condition or situation.

"Responsible Parties" means the Special Event applicant, sponsor, promoter, operator or their agents or contractors.

"Special Event" means a preplanned, single gathering event or series of related consecutive daily gatherings or events of an entertainment, cultural, recreational, political or sporting nature, or of any other nature, expected to draw 500 or more people at any assembly as participants and spectators, and sponsored by an individual or entity, which is proposed to be held on a Public Facility.

"Traffic Management Plan" means a plan designed for the purpose of safely and efficiently managing traffic associated with Special Events. All traffic management plans must be approved by the Director of Public Works and Transportation.

### **Section 1.03 Attendance Estimates**

For purposes of this chapter, attendance estimates by the permit applicant shall be accompanied by a written statement for 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 or similar performers, both in the City, and comparable communities; the price of admission; and the extent of advertising and promotion contemplated. The Deputy City Manager designated by the City Manager shall accept the applicant's attendance estimate representation unless it clearly appears to the Deputy City Manager designated by the City Manager from the written statements that the estimate is understated. In such instance, the Deputy City Manager designated by the City Manager shall substitute an estimate for that of the event applicant.

### **Section 1.04 Chapter Cumulative**

The provisions in this chapter are cumulative of all City ordinances. Except as provided below, outdoor festival permits, parade permits, park permits, building

permits, electrical permits, food establishment permits, amplification permits, alcoholic beverage licenses, and all other permits and licenses required by ordinance or other law for specific activities to be conducted in conjunction with or as part of the Special Event permit must be applied for separately in accordance with the applicable ordinance or other law. The Special Event manager designated by the City Manager shall receive and coordinate applications for any city-issued permit or license required in addition to the Special Event permit.

**Section 1.05 Exemption**

Special Event Responsible Parties are exempt from the requirements of this ordinance (1) for a Special Event, provided that a Public Safety Plan and a Traffic Management Plan is approved by the Police Chief, Fire Chief and Director of Public Works and Transportation no later than ninety (90) days prior to the Special Event, or (2) for a Special Event at a Major Sports Complex (and the operator of such complex) provided that the Major Sports Complex operator has an approved Public Safety Plan and Traffic Management Plan at least thirty (30) days in advance of the Special Event.

**ARTICLE II**

**SPECIAL EVENT PERMIT**

**Section 2.01 Permit Requirement**

No Person shall conduct a Special Event on any Public Property without a Special Event permit.

**Section 2.02 Permit Application**

A. Application. All applicants for a Special Event permit involving 500 or more persons shall submit a permit application and proposed Public Safety and Traffic Management Plans to the Deputy City Manager designated by the City Manager at least 90 calendar days prior to the date of commencement of the Special Event.

The application and/or proposed Public Safety and Traffic Management Plans, as applicable, shall contain information as to the estimated attendance at the Special Event, the time and place of the Special Event and other information specified in this chapter. To ensure that the public health, welfare and safety are protected, applicants shall provide for compliance with all City plumbing and electrical code requirements; sanitation and sewage disposal facilities, police services for security, crowd and traffic management and control, fire rescue personnel for emergency services, medical services coverage, insurance, and if the event will be held during hours of darkness, lighting complying with lighting standards prescribed in City ordinances, the Executive Public Safety Special Event Planning Guideline or other applicable City ordinances for streets and Public Property. Except for events permitted under the provisions of Subsection 2.02(B), Responsible Parties shall confirm to the Deputy City Manager designated by the City Manager the estimated size of the event at least 30 calendar days prior to the date of commencement of the Special Event.

B. Recurring events. For Special Events held on a regular or recurring basis at the same location that have similar projected attendance and spectator demographics, an application for a permit and proposed Public Safety and Traffic Management Plans covering all such Special Events during that calendar year may be filed with the Deputy City Manager designated by the City Manager at least 90 calendar days before the date and time at which the first event is proposed to commence. An application for a Special Event permit for recurring Special Events must be renewed at least annually for each calendar year.

C. Application information. The permit application shall contain the following information:

1. The name, address and telephone number of the Person seeking to conduct the Special Event;
2. The names, addresses and telephone number of the headquarters of the organization for which the Special Event is to be conducted, if any, and the

authorized and responsible heads of the organization;

3. The requested date(s) of the Special Event;
4. If applicable, the route to be traveled, including the starting point and the termination point;

The approximate number of vehicles which will constitute the Special Event and a description of the types of vehicles;

6. The hours when such Special Event will start and terminate;

If applicable, a statement as to whether the Special Event will occupy all or only a portion of the width of the streets or Public Facility or Public Property proposed to be traversed;

8. The location by street of any assembly areas for the Special Event;

9. The time at which units of the Special Event will begin to assemble at any area;

10. If the Special Event is designed to be held by, or on behalf of, any Person other than the applicant, the applicant for such permit shall file a letter from that Person with the Deputy City Manager designated by the City Manager authorizing the applicant to apply for the permit on his behalf;

11. The type of Special Event, including a description of activities planned during the event;

12. The approximate number of participants;

13. The approximate number of spectators;

14. A designation of any Public Facilities or equipment to be utilized; and

15. Any additional information that the Deputy City Manager designated by the City Manager finds reasonably necessary to make a fair determination as to whether a permit should be issued.

Security deposit. A permit for a Special Event requires a security deposit. No permit shall be granted unless the applicant has paid the security deposit in an amount determined by the Deputy City Manager designated by the City Manager in accordance with the standards in this chapter and the Executive Public Safety Special Event Planning Guideline. The amount of the security deposit shall be equal to the estimated cost of all Public Safety Special Services, non-public safety costs (described in Section 3.06) and Public Safety Basic Services that are provided by the City of Arlington (but not including costs for Public Safety Basic Services contracted for directly by Responsible Parties through voluntary contracts with qualified third parties such as described in Section 3.02(A)), and the estimated cost of cleaning up and restoring the premises upon the conclusion of the event. The security deposit shall be deposited by the City into a holding account. No interest shall be due to an applicant for the amount in the holding account. Promptly after the conclusion of the Special Event, the City shall inspect the premises and equipment used by the Responsible Parties.

If it is determined that there has been no damage to the City Public Facility or equipment beyond normal wear and tear and that all City costs of cleaning up and restoring the premises and all City costs for City-provided personnel and equipment has been remitted or reimbursed by the Responsible Parties, the security deposit shall be refunded in full within 30 calendar days of the conclusion of the Special Event, unless the Responsible Parties have failed to reimburse the City for such costs. If the Responsible Parties fail to timely reimburse the City for such costs, the City may deduct such costs from the security deposit as described in this Subsection.

2. If it is determined by inspection that the permitted event proximately caused damage to the Public Facility or equipment in excess of normal

wear and tear and which requires repairs in excess of routine maintenance, or that other City costs were incurred as set out in this Chapter, the City shall retain the security deposit or any portion necessary to pay for the cost of such repair or expenditure. The Deputy City Manager designated by the City Manager shall give written notice of the assessment of damages or costs and retention of the security deposit to the Responsible Parties by personal delivery or by deposit in the United States mail, with proper postage prepaid to the name and address set forth in the application for permit. Any assessment of damages or costs in excess of the security deposit shall be paid to the City within ten (10) business days after notice of such assessment of damages is sent. If not timely paid, the City may apply the security deposit to the extent of the damages. Retention of all or a portion of a security deposit shall be subject to the appeal procedures contained in this chapter. An assessment of damages in excess of the security deposit shall be subject to the procedures for appeal contained in this chapter.

- E. Insurance. An applicant shall procure and maintain at all times during its use of public facilities, insurance in such amounts and with such coverage as shall reasonably be required by the City and shall name the City as an additional insured on all coverage. The amounts and type of insurance required shall be determined by the City risk manager, based upon the nature of the activity and the risk involved. An applicant shall provide the City with a certificate from an insurer evidencing such coverage prior to applicant's use of the public facility, and within the time prescribed by the Deputy City Manager designated by the City Manager. The certificate shall also provide that the insurer shall give the City reasonable advance notice of insurer's intent to cancel any insurance coverage.
1. All coverages are to be provided on an occurrence form. In the event that coverage is only available on a claims made form, the insured shall agree to maintain extended reporting

coverage for a minimum of two years past the expiration of the annual policy term.

2. Anything to the contrary, notwithstanding the liabilities of the applicant for obtaining and maintaining the coverage required under this section shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of particular policies for insurance coverages.
  3. All coverage shall be primary and non-contributory with respect to all other available sources. Where the City is named as an additional insured, the City shall be an additional insured to the full limits of coverage purchased by the applicant even if those limits are in excess of the minimums required by this section.
  4. Federal, state and local government agencies may submit a statement of self-insurance allowed by the applicable state or federal statute. Such statement will be acceptable in place of insurance requirements defined herein.
- F. Permit fee. Each applicant for a Special Event permit shall submit a non-refundable application fee with the initial application to help defray the City's cost of processing the application and coordinating the relevant resources and personnel. The amount of the application fee shall be established by resolution of the Arlington City Council.

**Section 2.03 Standards for Issuance of Permit**

- A. The Deputy City Manager designated by the City Manager shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:
  1. The conduct of the Special Event will meet the requirements of the Director of Public Works for the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or



location; City approved traffic management and parking plans are required.

2. The conduct of the Special Event will not require the diversion of so great a number of City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;
3. The concentration of persons, animals or vehicles at the Special Event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such Special Event areas;
4. The conduct of the Special Event is not reasonably likely to cause injury to persons or property;
5. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
6. The applicant has secured police, fire and medical protection based on the standards in this chapter and the Executive Public Safety Special Event Planning Guideline;
7. No event is scheduled elsewhere in the City where the police, fire or medical resources required for that event are so great that the deployment of public safety services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property.

**Section 2.04 Issuance of Permit; Conditional Approval; Grounds for Denial**

- A. City staff will contact applicant within 60 calendar days of receipt of the permit application or within 15 calendar days for an event involving less than 5,000 persons. The Deputy City Manager designated by the City Manager will either deny the application by providing the applicant with written reasons for such denial, or shall conditionally approve the application. The conditional approval shall be

subject to the applicant providing to the Deputy City Manager designated by the City Manager or his designee within a reasonable time before the Special Event any additional information or items required by this Chapter or the Executive Public Safety Special Event Planning Guideline. If the information or items requested by the City are not delivered within a reasonable period of time prior to the Special Event, the permit application will be denied. If City requested information or items are provided, the Deputy City Manager designated by the City Manager shall, within 10 business days of receipt of such items, either deny the application by providing the applicant with written reasons for such denial, or shall approve the application and issue a permit for the Special Event at the time and location named in the application.

An application for a Special Event permit shall be denied, or an existing Special Event permit for recurring Special Events may be suspended or revoked, if:

1. The applicant has made any false material representation in the application.
2. The applicant fails to provide any of the items or information required by this Chapter or the Executive Public Safety Special Event Planning Guideline.
3. The Special Event will substantially interfere with any other event, parade, park event, street use event or other Special Event for which a permit has already been granted, or substantially interfere with the provision of public safety or other City services in support of such other previously-scheduled event or events, or will have an unmitigatable adverse impact upon residential or business access and traffic circulation in the area in which it is to be conducted.
4. The application for permit including any required attachments and submissions is not fully completed and executed.

The applicant has not tendered and maintained the required insurance certificate or security deposit.

6. The applicant is not legally competent to contract

The Responsible Parties have, on prior occasions, damaged City property and have not paid in full for such damage, or have other outstanding and unpaid debts to the City.

8. The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place.

The proposed use or activity is inconsistent with the type of Public Facility.

10. The use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the Public Facility, or City employees or the public.

11. The Responsible Parties have not complied or cannot comply with applicable permit requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services.

12. The use or activity intended by the applicant is prohibited by law, by this code and ordinances of the City, by the regulations of the Parks and Recreation Director or by the regulations of the Deputy City Manager designated by the City Manager.

13. The conduct of the Special Event will substantially interrupt the safe and orderly movement of aerial navigation, or of public transportation or other vehicular and pedestrian traffic in the area of the Special Event; or will cause irresolvable conflict with construction or development on Public Property or at a Public Facility where the Special Event is held; or will

close streets or unreasonably restrict the number of traffic lanes during peak commuter hours on weekdays so as to cause unsafe conditions for the public; or the expected attendance at the event will exceed the lawful capacity of the Public Facility under the City's fire code; or the parking available at the Public Facility will be inadequate to accommodate the expected attendance at the event.

**Section 2.05 Processing of Permit Application**

- A. Security deposit. Applications for permits for Special Events that require payment of a security deposit, insurance proof, documentation of approval or permits from other governmental entities, or compliance with other terms or conditions, will be reviewed and, if the application otherwise conforms to all other requirements, a conditional approval will be issued. No permit shall be issued unless the security deposit is paid or waived within the times prescribed by the Deputy City Manager designated by the City Manager. If, within the time prescribed by the Deputy City Manager designated by the City Manager, any required security deposit is not paid, or an insurance certificate evidencing the requisite insurance is not filed with the City, or the approvals or permits of other governmental entities have not been met, the conditional approval will automatically expire, the application for permit will be deemed denied and no written notice of denial will be required.
- B. Contents of notice; grounds for denial. Notice of denial of an application for permit shall clearly set forth the grounds upon which the permit was denied and, where feasible, shall contain a proposal by the City for measures by which the applicant may cure any defects in the application for permit or otherwise procure a permit. Where an application for the same time and place has been received, and a permit has been or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular area, the City shall propose an alternative place, if available for the same date and time, or an alternative date and time, if available for the same place. To the extent

permitted by law, the City may deny an application for permit if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant.

- C. Notice of extended review of denial or issuance of permit. Written notice of denial or notice of extension shall be served on the applicant by personal delivery, or by deposit in United States mail, with proper postage prepaid, to the name and address set forth on the application for permit.
- D. Amendment or revision of applications. Any amendment or revision of an application or permit shall for purposes of determining the priority of the application for permit, relate back to the original filing thereof; but the time in which the City shall grant or deny the application for permit and serve notice of such granting or denial shall be computed from the date of the amendment or revision.

**Section 2.06 Conduct of Special Events Regulated; Non-Transferability of Permit**

Special Events permits are applicant and place specific. No permit or conditionally approved permit application may be transferred from person to person or place to place. Rain dates and/or rain locations will be at the discretion of the City Manager or his designated Deputy City Manager.

**Section 2.07 Exemptions from Permit Requirements**

- A. Exemptions. The following activities shall be exempt from the permit requirements of this chapter:
1. any event, gathering, entertainment, cultural event, convention or exposition at the Arlington Convention or Community Center.
  2. any event at any church or religious institution, university, college, junior college, high school,

middle school or elementary school stadium or gymnasium by the owners of these facilities;

3. any activity on private property unless the activity will occupy adjacent public streets or Public Property during the activity; or
  4. any parade event or park event or other event for which a permit is issued under the Parks and Recreation Chapter, Construction Chapter or Streets and Sidewalks Chapter, unless the event is expected to draw 500 or more people at any time as participants or spectators.
- B. Public Safety Plan. Notwithstanding the preceding exemptions from event permit requirements in this section, any Special Event shall comply with the public safety standards for Special Events contained in this chapter and in the Executive Public Safety Special Events Planning Guideline.

### **ARTICLE III**

#### **PUBLIC SAFETY STANDARDS FOR SPECIAL EVENTS**

##### **Section 3.01 Authority**

The Police and Fire Chiefs will determine Public Safety measures that exceed the minimum standards set forth in this section based on specific event threat and risk factors. The Chiefs are the approving authorities for all Public Safety Plans required by this chapter and the Executive Public Safety Special Event Planning Guideline. Elements identified in the guideline are not intended to limit or restrict the ability of the Police Chief or Fire Chief to manage or define public safety resources preparation, activation, deployment and recovery based on the threat and risk of each Special Event

##### **Section 3.02 Public Safety Services**

The following requirements for public safety will be observed at all Special Events:

- A. Police. The City police department shall be the provider of emergency command and control and Public Safety Special Services at Special Events in accordance with the public safety standards in this chapter and the Executive Public Safety Special Events Planning Guideline. If the Responsible Parties for a Special Event wish to use private sector entities for personal safety or property security at Special Events, such entities will be supplemental or in addition to the services provided by the City police. The Responsible Parties for a Special Event may provide non-city licensed peace officers for personal safety and property security.
- B. Fire. The City fire department shall be the provider of fire protection services including emergency management, NIMS and other emergency command and control, fire prevention, inspection, suppression, rescue, explosive ordnance disposal, hazardous materials response, public safety dispatching and other Public Safety Special Services for Special Events in accordance with the standards in this chapter and the Executive Public Safety Special Events Planning Guideline. Emergency medical services accessed by the public 911 System, including transportation shall be provided by the City fire department and the City's sole authorized ambulance contractor in accordance with the City ambulance contract and City ambulance service ordinance.
- C. Medical services. Special Event medical services, except for patient transportation, may be provided by the Special Event Responsible Parties. All providers of event medical services are required to have appropriate training and education on the City emergency medical system's medical protocols, must provide patient care that is consistent and interoperable with the City's emergency medical providers, and must be certified by the State of Texas in accordance with law. Any medical services furnished must be under the supervision of a Medical Director.
- D. Public safety plan. For any Special Event at which attendance and participation is expected to exceed 50,000 persons, the City shall develop a written, coordinated Public Safety Plan in collaboration with

the Special Event Responsible Parties. For any Special Event at which attendance and participation is expected to be less than or equal to 50,000 persons, Responsible Parties shall develop a written, coordinated Public Safety Plan for City consideration. Based on threat and risk assessment, the City reserves the right to write the Public Safety Plan for events with participation less than or equal to 50,000.

All Special Event Public Safety Plans shall include without limitation, procedures, equipment, personnel and safeguards for:

- Determining and Acquiring the Security and Life Safety Workforce
- Communications and Communication Technology
- Access Control: Screening and Physical Security
- Transportation/Traffic/Parking
- Intelligence
- Credentialing
- Administrative and Logistics Support
- Protecting Critical Infrastructure and Utilities
- Fire/EMS/Medical Care
- Hazardous Materials/Weapons of Mass Destruction: (CBRNE) Detection and Consequence Management
- Tactical Support and Crisis Management
- Public Information and Media Relations
- Training
- Planning for and Managing Demonstrations
- Sound mitigation

- E. Public safety services limitation. No Special Event shall be scheduled in the City at the same time as another Special Event or a combination of parade, park, street use events and other Special Events if the police or fire or medical resources required for that event are so great that the deployment of public safety services for the proposed Special Event would have an immediate and adverse effect upon the welfare and safety of persons and property in the City. The City shall determine an appropriate separation period between Special Events when multiple Special Events are requested to occur in one day. The City will give consideration to type of event, traffic, parking and public safety concerns to determine if the City will



allow multiple Special Events to occur in a single day.

**Section 3.03 Public Safety Emergency Medical and Fire Protection and Rescue Standards**

- A. Emergency medical personnel. Responsible Parties for Special Events are required to have emergency medical services, including transportation, in accordance with the City ambulance services chapter and shall arrange for emergency medical services, including transportation, based upon projected attendees and participants as determined by the Executive Public Safety Special Event Planning Guideline

In addition to on site medical personnel, Special Event Responsible Parties shall provide Stand-By Ambulance Coverage using Arlington EMS System ambulances in accordance with the City ambulance service ordinance. The number of Stand-By ambulances will be determined by the Fire Chief in accordance with this chapter and the Executive Public Safety Special event Planning Guideline, threat and risk and best practices. The stand-by ambulance(s) rates are identified in the ambulance service contract with the City.

- B. Private medical services. Responsible Parties for Special Events may elect to provide basic medical services. Medical services provided by the Responsible Parties for the Special Event shall comply with the public safety standards set forth in this chapter and Executive Public Safety Special Event Planning Guideline. Rescue services are to be provided by the City fire department. Medical services for patients must be provided at the site of the Special Event in accordance with City emergency medical system protocols. Should a person experience a serious or life threatening emergency at the Special Event, the Responsible Party shall comply with the directions and orders of the City fire department or City's ambulance contractor or Medical Director to insure the rapid treatment and transport of the patient. Emergency medical personnel must be deployed in such a way that provides for arrival of basic life support or CPR-trained personnel with defibrillation

capability at a patient's side within 3 to 5 minutes of a request for aid 90% of the time.

- C. Fire services. Fire protection and rescue services including emergency management, emergency command and control, fire prevention, inspection, suppression, rescue, explosive ordnance disposal, hazardous materials response, public safety dispatching and other fire department Public Safety Special Services shall be provided by the City fire department. City fire department procedures and the National Incident Management System standards apply to all public safety operations. Every designated fire department team shall have a designated supervisor within the team. When teams are not implemented, there shall be at least one City fire department supervisor for every six City fire department personnel or team.

Public safety fire special services. The number of fire Public Safety Special Services personnel/teams provided at Special Events shall be determined by the Fire Chief based on type of event, attendance, threat and risk, best practices, the standards set forth in this ordinance, the Executive Public Safety Special Event Planning Guideline and other city ordinance requirements.

The Fire Chief shall address the following personnel/team needs for Special Events:

- Life Safety code compliance
- Fire Suppression
- Explosive Ordnance Disposal
- Rescue
- Incident Command (NIMS)
- Medical Control/Care
- Hazmat (CBRNE)
- Public Safety Dispatching
- Emergency Management
- Special Considerations

**Section 3.04 Police Public Safety, Personal Security, and Property Safety Personnel Standards**

- A. Responsible Parties for Special Events shall arrange for City police department personnel based upon projected attendees and participants according to the Executive Public Safety Special Event Planning Guideline.
- B. In addition to other requirements in this chapter and the Executive Public Safety Special Event Planning Guideline, if Public Safety requires traffic control personnel to regulate or control outdoor vehicular or pedestrian traffic at a Special Event, the Responsible Parties shall be responsible for the cost of providing such additional personnel for each intersection or other area that requires such staffing. Considerations for traffic officer intersection assignment include, without limitation: amount and speed of traffic, area traffic violations and reported criminal activity, pedestrian traffic, security concerns, intersection control issues and officer relief issues.
- C. In addition to and as a part of the above City police department personnel standards and National Incident Management System standards apply to all Public Safety operations. Every designated police department team shall have a designated supervisor within the team. When teams are not implemented, there shall be at least one City police department supervisor for every six City police department personnel in accordance with the Executive Public Safety Special Event Planning Guideline.
- D. Police public safety special services. The number of police Public Safety Special Services personnel/teams provided at Special Events shall be determined by the Police Chief based on type of event, attendance, threat and risk, best practices the standards set forth in this ordinance, the Executive Public Safety Special Event Planning Guideline and other City ordinances or law.

**Section 3.05 Costs for Resources Provided by the City**

- A. Rates of reimbursement. Responsible Parties shall reimburse the City for the cost of police, fire and non-public safety personnel provided by the City of Arlington for Special Events. The City non-holiday rate of reimbursement shall be one and one-half times the current regular prevailing hourly rates, plus benefit costs incurred by the City, pursuant to current City employee pay schedules for such City employees. The City holiday rate of reimbursement shall be two times the current regular prevailing hourly rates, plus benefit costs incurred by the City, pursuant to current City employee pay schedules for such City employees. Responsible Parties shall reimburse the City within 30 calendar days of the respective Special Event date.
- B. Notification of additional resources required. Thirty days prior to any Special Event, the Responsible Parties will provide information to the City about any non-City public safety resources utilized. Responsible Parties shall reimburse the City in accordance with this chapter for any additional City resources provided by the City that are required to achieve the approved plan.

**Section 3.06 Standards for Sanitary Facilities, Food Service Inspections, Traffic Management, Non-public Safety Personnel Cost, Prohibition of Glass Containers, Recycling, and Equipment Costs**

- A. Sanitary facilities, in the form of portable toilets, shall be provided by the Responsible Parties to supplement the available facilities at any given venue in light of the projected number of attendees and participants. The facilities shall comply with applicable health laws and regulations and the Executive Public Safety Special Event Planning Guideline.
- B. Food service establishments, booths and dispensing locations associated with Special Events shall be in compliance with City Health Codes and all other applicable laws and regulations.

- C. All Special Events shall have a Traffic Management Plan contained within the Public Safety Plan.
- D. The Responsible Parties shall be responsible for costs the City incurs for non-public safety personnel necessary for traffic management, code enforcement, set up for the event, maintenance during and clean up of sanitary facilities after the event in accordance with the prevailing regular rates plus applicable overtime, plus benefit costs incurred by the City, pursuant to established City employee pay schedules.
- E. On the Special Event premises, no person shall possess any container made of glass in an open area.
- F. All Special Events shall have a plan for the recycling of waste materials and products associated with the event. Recycling bins for paper, aluminum, plastic and other recyclable items shall be provided in order to minimize waste associated with all Special Events.

Trash and Recycling - To insure the health, safety and welfare of the community, the Special Event Responsible Party is required to control litter and provide trash collection during the course of the entire event. Trash and Recycling plans shall include:

- An estimate of trash volume for entire event
- A plan to address litter control and timely haul off of collection containers
- Steps taken to insure access to recycling for plastic, aluminum, and other recyclable trash elements
- The estimated amount of trash that will be recycled
- The planned placement of trash collection containers at the event location and a hauling schedule

All collection containers will be furnished by the City Collector. In the event the City Council has not designated a City Collector, the waste hauler must be approved by approval authority identified in this ordinance.

- G. The Responsible Parties shall be responsible for equipment costs the City incurs for the Special Event.

**Section 3.07 Interoperable Communication**

Responsible Parties shall provide communication equipment for the purpose of amplifying the City's public safety transmission signals if City radio signals are impeded. The Responsible Party's communication equipment shall be designed and configured to ensure compatibility with the City's communication systems should there be a need for Interoperability with public safety agencies for Special Event management or in the event of an emergency condition. Responsible Parties for Special Events shall insure that there is no obstruction or interference with the transmission of City public safety communication systems.

**Section 3.08 National Incident Management Systems (NIMS) Compliance**

- A. Special Event personnel serving in a security or safety capacity shall have training in the use of NIMS. NIMS training requirements for Responsible Parties personnel will be based on responsibility for onsite security and onsite safety duties as established in the applicable Public Safety Plan. In the event of an emergency, Responsible Parties personnel will be supplemental to the services provided by the City police and/or fire department.
- B. All public safety employees, regardless of jurisdiction, will be NIMS compliant and will attend any related Arlington specific training as required by the Police Chief and/or Fire Chief.

**Section 3.09 Automated External Defibrillators**

Automated External Defibrillators shall be located strategically throughout Responsible Parties' facility and made accessible to medical personnel and non-medical personnel that may be trained in the use of an AED pursuant to Chapter 779 of the Texas Health and Safety Code. Emergency medical personnel must be deployed in such a way

that will provide for the arrival of basic life support or CPR trained personnel with defibrillation capability at a patient's side within 3 to 5 minutes of a request for aid 90% of the time.

## **ARTICLE IV**

### **APPEAL**

#### **Section 4.01 Procedures for Appeal**

- A. Review by Deputy City Manager designated by the City Manager:
1. Any applicant who is denied a permit, or a permittee who has had all or a portion of its security deposit retained because it was assessed damages or costs pursuant to this chapter (an "appellant") may, within five business days of the service of notice of such determination, file a written appeal from such determination with the Deputy City Manager designated by the City Manager.
  2. An appellant may appeal the permit application deadline, permit fee, security deposit or other applicant requirement or cost established by this chapter or the Executive Public Safety Special Event Planning Guideline if the applicant demonstrates that the Special Event proposed is exclusively or primarily for speech or other expressive activity protected by the First Amendment to the United States Constitution and that the application of the permit fee, security deposit or other expense is unreasonably burdensome or cannot be met due to insolvency or indigence.
  3. The Deputy City Manager designated by the City Manager shall have five business days from the date on which the appeal was received in which to serve upon the appellant a notice that the appeal was affirmed, modified or reversed.

4. The notice to appellant shall be deemed served upon the appellant when it is personally delivered or when it is sent by United States mail, with proper postage prepaid, to the name and address set forth on the application for permit.
- B. Form of appeals. Any appeals filed pursuant to this chapter shall state succinctly the grounds upon which it is asserted that the determination should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of the determination of the City, and any other papers material to the determination.

**Section 4.02 Final Decision**

The appellant, within five business days after denial or modification of his or her appeal by the Deputy City Manager designated by City Manager, may appeal that denial to the City Manager for a final decision based upon the documents and circumstances presented within five business days of receiving the appeal. Judicial review of any such final decision may be obtained through the filing of an appropriate action with a court of competent jurisdiction.

**ARTICLE V**

**ENFORCEMENT**

**Section 5.01 Enforcement and Penalty**

- A. It is an offense for any person to:
1. Conduct, stage or promote a Special Event without a permit unless exempted in accordance with this Chapter.
  2. Knowingly make a false statement in a Special Event application.
  3. Violate any provision of this chapter or any other City ordinance.



- B. Each offense is punishable by a fine not to exceed:
1. \$2,000 for a violation of a provision of this chapter or violation of a requirement of a Special Event permit governing fire safety, zoning or public health and sanitation, including dumping of refuse; or
  2. \$500 for all other violations of this chapter or other violations of the requirements of a Special Event permit.

**Section 5.02 Revocation or Suspension of Permit**

The Deputy City Manager designated by the City Manager, after consultation with appropriate city staff including without limitation, the Police Chief or his designee, Fire Chief or his designee, the City Attorney or his designee and the Public Works and Transportation Department director or his designee, may suspend or revoke a permit issued under this chapter for violation of this chapter; for violating any federal, state or local laws or ordinances during the Special Event; or for making any material false representation in an application for a permit or for an exemption certificate. In the event of suspension or revocation, the appeal provisions in this chapter shall apply, commencing with the date the suspension or revocation notice is provided to the applicant.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars (\$2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal

or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

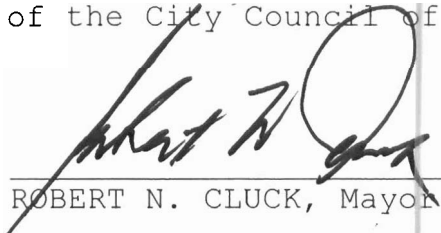
7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.


This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 10th day of March, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 24th day of March, 2009, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



ROBERT N. CLUCK, Mayor

ATTEST:



KAREN BÄRLAR, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 

**Ordinance No. 10-104**

**An ordinance amending the "Special Events" Chapter of the Code of the City of Arlington, Texas, 1987, through the addition of Article VI, Special Provisions Related to Speech and Public Assembly; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; governmental immunity; injunctions; publication; and becoming effective ten days after first publication**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "**Special Events**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the addition of **Article VI, Special Provisions Related to Speech and Public Assembly**, so that said Article shall be and read as follows:

**ARTICLE VI**

**SPECIAL PROVISIONS RELATED TO SPEECH AND PUBLIC ASSEMBLY**

**Section 6.01 Purpose and Intent**

The Arlington City Council recognizes and supports the public's right of assembly and free speech and to utilize designated public facilities for such purposes. At the same time, the City has an important and compelling governmental interest in protecting property, public safety, health, and welfare, and controlling the use of streets and other public facilities and venues. This Article seeks to accommodate public rights of speech and assembly consistent with that governmental interest by establishing procedures, terms, and conditions for use of public areas and facilities for such purposes when an applicant indicates that compliance with the standard permit application process, review process or permit requirements would substantially burden protected rights.

**Section 6.02 Applicability**

- A. This article applies to all permits required by the Code of the City of Arlington, Texas, 1987, for events involving public assembly, free speech, or the use of designated public facilities for such purposes when an applicant indicates that compliance with the standard permit application process, review process or permit requirements would substantially burden protected rights. In the event of a

conflict between this Article and any other provision in the Code of the City of Arlington, Texas, 1987, this Article shall control.

B. Permits are not required for:

1. A governmental entity acting within the scope of its functions; or
2. Spontaneous events involving public assembly and/or free speech occasioned by news or affairs coming into public knowledge within two days prior to such event, provided that:
  - a. The event occurs on private property or a public area in a manner that does not unduly disrupt or inconvenience the public in the use of such area; and
  - b. The organizer or sponsor thereof provides written notice to the Administrator and Police Chief, or his designee, at least 24 hours prior to the start of the event, or such other prior notice as may be reasonable under the circumstances.

**Section 6.03 Definitions**

“Administrator” means the person designated by the City Manager to administer this Article.

“Applicant” means an individual seeking a permit required by the Code of the City of Arlington, Texas, 1987 for events involving public assembly, free speech, or the use of designated public facilities for such purposes; who has indicated that compliance with the standard permit application process, review process and/or permit requirements would substantially burden protected rights.

“City Code” means the Code of the City of Arlington, Texas, 1987.

“Permit” means written permission for an event issued pursuant to this Article or required by any other provision of the City Code, regardless of whether that terminology is used by the other provision of the City Code.

“Permitee” means an individual who has been issued a permit under this Article.

**Section 6.04 General Standards and Procedures**

- A. Decision-Making Unrelated to Content of Expression. To achieve the purposes of this Article without undue interference with protected rights of speech and assembly, decisions to issue, deny, or conditionally approve permits shall not be

based on the content of a message associated with the event absent a compelling governmental interest. Notwithstanding that general standard, protections otherwise applicable to speech and assembly are limited and may not extend to speech or assembly that is intended to or has the result of causing public alarm, disruption, falsehood, or other form of expression that is not protected under the laws or constitution of Texas or the United States.

- B. Time, Place and Manner Controls. This Article seeks to impose reasonable time, place and manner controls in an appropriate and limited manner upon events and facility uses for which permits are required. This Article shall be administered in a manner that seeks to allow for expression, assembly, and the exercise of religious rights in accordance with applicable constitutional and statutory limits and controls.
- C. Application Requirements. The standard application requirements set forth in the City Code for the permit sought shall be required under this Article, subject to the following conditions or as otherwise amended by this Article to avoid a substantial burden on protected rights. The City shall require information related to appropriate factors such as public safety, and in that regard may make reasonable inquiry into purpose of assembly and speech and manner in consonance with peace and good order, where such request is not intended to interfere with expression, and where the purpose of the event might have a bearing on the precautions that should be taken by police authorities to protect those engaged in the event and the general public. Inquiry into the purposes of the assembly shall not be used for grounds to deny a permit nor for suppression of generally lawful activity.
- D. General Application Time Frame. Except for applications where a modification has been granted under Section 6.05, applications for permits under this Article shall be filed with the Administrator within the timeframe stated in the City Code for the permit sought. In addition, all review and action timeframes set forth in the City Code shall apply unless a modification has been granted under Section 6.05 or unless otherwise amended by this Article.
- E. Internal Appeal Step. At any point in the permit application and approval process, an applicant who feels aggrieved or substantially and adversely affected by compliance with this Article may request review through an intermediate appeal procedure under Section 6.10.

#### **Section 6.05 Modified Application or Expedited Application Review**

Upon request of an applicant, the Administrator may agree to a modified application process or to an expedited permit application review when the applicant indicates that compliance with the standard permit application or review process: (1) is not required due to size, location, duration or other appropriate factors indicating that

public safety, welfare, and convenience would not be affected by expedited review; or (2) would substantially burden protected rights, including speech and assembly, as to matters of public concern and the modified application or expedited review process would allow reasonable review to address substantial matters of public safety, welfare, and convenience.

**Section 6.06 Fees**

- A. The standard non-refundable application processing fee required in the City Code for the permit sought shall also be required of an applicant under this Article. Such fee is required to cover the administrative costs of processing the permit application and shall be paid to the City by the applicant when the application is filed.
- B. The City may require the applicant to pay rental fees, service charges, or costs incurred by the City in accordance with this Article.

**Section 6.07 Police Protection; Public Works and Other Expenses**

- A. Police Protection.
  - 1. If possible, without disruption of ordinary police services or compromise of public safety and welfare, regularly scheduled on-duty police personnel shall cover the event. The Administrator shall seek review by the Police Chief, or his designee, of any application which might require additional police personnel.
  - 2. When reviewing an application, the Police Chief, or his designee, shall determine whether and to what extent extraordinary use of public resources is reasonably necessary for the event for traffic control and public safety and welfare, including public convenience. The Police Chief, or his designee, shall base this decision on relevant criteria including, but not limited to, the size, location, duration, time and date of the event; the expected sale or serving of alcoholic beverages; the number of streets and intersections blocked; threat and risk assessments; best practices; and the need to detour or preempt public travel and use of streets and sidewalks. Extraordinary use of public resources is the use of public resources to an extent that rises above the level of reasonable and prudent use of public resources in the normal course of business such that:
    - a. the normal delivery of public services is hampered or delayed to other parts of the City, or

- b. the City incurs a substantial or unreasonable interruption of the delivery of service to other parts of the City, or
  - c. the City incurs a substantial or unreasonable financial cost as a result of the extraordinary use of public resources.
- 3. The speech content of the event shall not be a factor in determining the amount of police protection necessary, except when the applicant's speech is determined to have reasonable potential to cause, or will have the result of causing, public alarm, disruption, falsehood, or which will constitute any form of expression that is not protected under the laws or constitution of Texas or the United States. When an applicant is required to pay the costs of additional police protection as a condition of approval of the permit, such costs shall only be based upon needs directly associated with the event and not on the basis of possible disruption of the event by protestors or other persons who might be opposed to the speech or assembly.
- 4. If additional police protection for the event is deemed necessary by the Police Chief, or his designee, he shall so inform the Administrator and applicant. The applicant shall be required to pay the cost of providing such additional police protection deemed necessary by the Police Chief, or his designee, as a condition of approval of the permit.
- B. Public Works and Health. In the same manner, the Administrator shall determine when additional public works-related actions such as lighting, refuse receptacles and pick-up, sanitary facilities, traffic control signs, devices, or personnel are necessary for the proposed event. The applicant shall be required to pay the costs of providing such additional services as a condition of approval of the permit.
- B. Other Expenses. In circumstances where the event itself may be expected to cause the City to incur additional, extraordinary expenses, other than those identified above, the Administrator shall identify such expenses and the basis for determining them to be extraordinary. The applicant shall be required to pay the costs of such expenses as a condition of approval of the permit.

**Section 6.08 Requirements for Surety for Performance**

To avoid interference with protected rights of speech and assembly, when the standard permit requirements set forth in the City Code for the permit requested require imposition of surety for performance (including but not limited to insurance, bonding, or monetary deposits) an applicant under this Article shall only be required to provide surety based upon needs directly associated with the event and not on the basis of possible disruption of the event by protestors or other persons who might be opposed to the speech or assembly. The Administrator may waive such surety requirements in the interest of



permitting protected speech and assembly to occur when an applicant provides evidence of inability to obtain surety.

**Section 6.09 Standards for Action on Applications**

- A. Prior to action on an application the Administrator shall provide notice of the application to the Police and Fire Chiefs and the Director of Public Works and Transportation. In determining whether to approve or deny an application the Administrator shall consider the following factors:
  - 1. The potential for the event to substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location.
  - 2. The potential for the event to require the diversion of so great a number of municipal police officers to properly police the event as to prevent normal police protection of the City.
  - 3. The potential for concentration of persons, animals, and vehicles at the event to unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the event.
  - 4. The potential for the conduct of the event to cause injury to persons or property.
  
- B. A permit shall be issued, unless the Administrator finds that:
  - 1. The application, including any required attachments and submissions, is not fully completed.
  - 2. Conduct of the event will unduly inconvenience either the public in using public areas normally open for general public use or the City in the conduct of governmental operations.
  - 3. Adequate sanitation and other required health facilities are not available in or adjacent to the area in which the event will be held and/or arrangements for such have not been made.
  - 4. There are not sufficient parking places near the site of the event to accommodate the number of vehicles reasonably expected.
  - 5. The applicant has not paid or provided for payment of expenses or costs required under Section 6.07 or other provisions of this Article.

6. The applicant has not provided the required surety for performance of obligations or obtained a waiver from the Administrator for such requirements under Section 6.08.
  7. Another event(s) is scheduled elsewhere in the City and municipal resources (including but not limited to law enforcement, fire, or public works personnel) required for the event(s) are so great that their deployment would have an immediate and adverse effect upon the welfare and safety of persons and property.
  8. The event proposed by the applicant would present an unreasonable danger to the health or safety of the applicant or other members of the public.
  9. The applicant is legally incompetent to contract or to sue and be sued.
  10. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged public property and have not paid in full for such damage, or has other outstanding and unpaid debts to the City.
  11. The event proposed by the applicant would conflict with an event that has already applied for a permit for the same time and place.
  12. The event proposed by the applicant is prohibited by law.
- C. The Administrator shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this Article based upon political, religious, ethnic, race, disability, sexual orientation or gender-related grounds or other criteria that would constitute a violation of state or federal law.
- D. The Administrator may authorize the conduct of the event at a date, time, location, or route different from that proposed by the applicant. An alternate permit shall conform to the requirements of, and shall have the effect of, a permit issued under this Article.
- E. Unless otherwise provided in this Article or agreed to by the applicant, the Administrator shall act on an application within the time specified in the City Code for that type of permit sought. The Administrator shall notify the applicant of action on the application either by personal delivery or certified mail. If the application is denied, approved with conditions, or otherwise modified, the notice shall include a statement of the reasons for such action.

- F. A person aggrieved and directly affected by a decision of the Administrator under this section may file an interim or final administrative appeal pursuant to Section 6.10.

**Section 6.10 Interim and Final Appeals**

- A. An applicant or other person who is directly affected by a decision of the Administrator under this Article may file an appeal of the decision as provided in this section.
- B. Interim Appeal. Prior to a final decision by the Administrator, an applicant who claims that delay, imposition of conditions, or other action by the City violates any applicable law, or unreasonably and improperly interferes with constitutionally protected rights, may file an interim appeal as follows:
  - 1. The applicant shall notify the Administrator in writing of the claim specifying in detail the basis for the claim. The Administrator shall review the notice and determine if administrative action will adequately resolve the problem.
  - 2. If the applicant is not satisfied by such administrative action, the applicant may file a written appeal within 48 hours to the Deputy City Manager designated by the City Manager to administer appeals under this Article, with a copy to the City Secretary specifying the grounds for the appeal. The Deputy City Manager shall review the appeal to determine if it will hear the matter or if it determines that grounds for appeal are not properly set forth.
  - 3. If the Deputy City Manager determines that the appeal will not be heard, it shall notify the applicant within 24 hours of such decision. If the appeal proceeds, the Deputy City Manager shall schedule a hearing on the matter within five days with such notice to the applicant and public as is deemed appropriate under the circumstances. At the hearing, the Deputy City Manager shall hear the applicant, Administrator, and such other persons as may be allowed to speak. Within 48 hours after the hearing, the Deputy City Manager shall issue its decision in writing and shall so notify the applicant.
- C. Appeal of Final Action. The applicant or any person directly affected by final administrative action on an application may file a written appeal with the City, with a copy to the City Secretary not later than five days after the final action. The appeal shall state with specificity the grounds for the appeal. The Deputy City Manager may deny an appeal without hearing if it determines on the face of the appeal that it has no merit and shall so notify the appellant and other directly affected parties within 48 hours after such determination. If the appeal proceeds,

the Deputy City Manager shall schedule a hearing within five days. The appeal hearing shall be limited to the grounds stated in the appeal unless the Deputy City Manager for good cause determines to hear other issues or concerns. The appellant, applicant (if not the appellant), the Administrator and other persons directly affected may speak or submit evidence at the hearing. The Deputy City Manager may determine who is permitted to participate in the hearing. The Deputy City Manager shall issue its decision on the appeal, stating the reasons for its decision, within five days after the hearing.

#### **Section 6.11 Participation in Events; Restrictions**

- A. Participation. An event for which a permit is issued to a private entity that is not part of the local government of City or an event that is not sponsored directly or indirectly by the City shall not be deemed state or governmental action. Accordingly, the City shall not compel or otherwise direct the inclusion or exclusion in the event of any group or class of individuals.
- B. Restriction on Participation. An event subject to this Article may be limited as to the number of participants in the interest of safety, health, public order, and adequacy of facilities and security. If the number of participants is so limited, the permit shall specify an objective manner in which participants are selected and shall provide an expedited manner of appealing any exclusion in accordance with Section 6.10. The number of participants also may be restricted by order of the Administrator or Police Chief, or his designee, or Fire Chief, or his designee, even if not limited in the permit, based on considerations of public health, safety, and welfare.

#### **Section 6.12 Cost Recovery**

If a permittee fails to pay costs or take actions required under this Article, the City, after requesting the permittee for payment, may draw upon any security provided under Section 6.08 or may seek to recover such costs from the permittee or other responsible person by appropriate legal action. If the City prevails in any such action for recovery, it shall be entitled to reimbursement of any costs incurred in seeking such recovery, including court costs and attorneys' fees. Cost recovery from permittees and participants shall be focused upon the conduct of the permittees and authorized participants and not on conduct of observers or others over whom permittee cannot reasonably be expected to exercise control.

#### **Section 6.13 Revocation or Suspension of Permits**

- A. The Administrator may suspend or revoke any permit issued under this Article upon finding any violation of this Article, the terms or conditions imposed in the

permit, or for any other action deemed detrimental to public health and safety. Such revocation shall take effect immediately, and the Administrator shall promptly notify the permittee of revocation. After revocation, the permittee may not conduct the event, or if the event has commenced, shall immediately cause the event to be terminated in a safe, proper manner.

- B. If a public emergency arises where municipal resources required for the emergency are so great that deployment of municipal personnel, equipment or services for an event would have an immediate, adverse effect upon welfare and safety of persons or property, the Administrator may suspend or revoke the permit and the permittee shall comply with such directives as the Administrator may impose.

#### **Section 6.14 Enforcement**

This Article may be enforced by injunction, restraining order, declaratory relief or such other order as may be imposed by a court with appropriate jurisdiction.

#### **Section 6.15 Judicial Review**

Any person aggrieved by a decision under this Article may appeal from that decision to a court with appropriate jurisdiction in accordance with applicable statutes or court rules. Any person who is granted standing to file internal appeals pursuant to Section 6.10 shall first exhaust such administrative remedies prior to seeking judicial relief.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars (\$2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

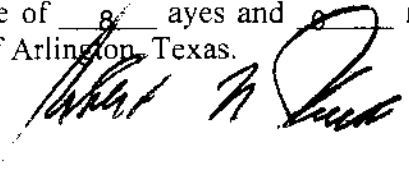
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The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

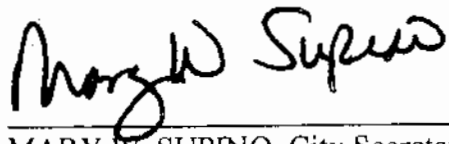
8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 7th day of December, 2010, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 14th day of December, 2010, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
ROBERT N. CLUCK, Mayor

ATTEST:



MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 