

Ordinance

No. ORDINANCE 2022-21

AN ORDINANCE OF THE TOWN OF OAKLAND, FLORIDA, CREATING CHAPTER 49 – SPECIAL EVENTS OF THE TOWN’S CODE OF ORDINANCES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, as provided in Article VIII of the Constitution of the State of Florida and chapters 163 and 166, Florida Statutes, the Town of Oakland (the “Town”) enjoys all home rule authority, police power, land development and zoning authority, and governmental and proprietary powers necessary to conduct municipal government and perform municipal functions; and

WHEREAS, under Town Charter Section 1-4, the Town shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Section 1-4 of the Town Charter furthers says the powers of the Town shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and special law; and

WHEREAS, Chapter 633, Florida Statutes, establishes the Florida Fire Prevention Code and the State’s expectation of enforcement by municipalities; and

WHEREAS, Sections 117.021, 471.025, 668.003(3), and 713.135(6), Florida Statutes, authorize the Town to accept electronic documents with electronic signatures; and

WHEREAS, the Town Commission finds that it is necessary to regulate large public gatherings in recognition of their impact on Town resources, traffic flow, and the surrounding properties, as well as the potential danger posed by fireworks displays; and

WHEREAS, the Town Commission further finds it is in the best interests of the citizens of the Town and the protection of their investments in Town facilities to establish reasonable prices and rules for the use of those facilities to private events; and

WHEREAS, the Town needs to ensure clarity and consistency among the various chapters of the Town Code and the requirements of the Town’s inter-local agreement with Orange County for enforcing the Florida Fire Prevention Code; and

WHEREAS, the Town Commission in good faith determines that this Ordinance is in the best interest of the Town and its residents and promotes the health, safety, and welfare of the public.



NOW, THEREFORE, BE IT ENACTED BY THE TOWN COMMISSION OF THE TOWN OF OAKLAND, FLORIDA:

Section 1. Recitals.

The foregoing recitals are hereby ratified and confirmed as true and correct and are incorporated herein by this reference.

Section 2. Authority.

The Town Commission of the Town of Oakland has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

Section 3. Chapter 49 Special Events.

Chapter 49 of the Town's Code of Ordinances is hereby established with the language attached hereto as Exhibit A.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

Section 5. Codification.

It is the intention of the Town Commission that the provisions of this Ordinance shall become and be made a part of the Town's Code of Ordinances. Sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "chapter," "section," "article," or such other appropriate word or phrase in order to accomplish such intentions. Regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or re-lettered and the correction of typographical errors that do not affect the intent may be authorized by the Town Manager, without need of public hearing, by filing a corrected or recodified copy of same with the Town Clerk.

Section 6. Effective Date.

This Ordinance shall be in full force and take effect immediately upon its passage and adoption.

[signature page follows]



PASSED AND ADOPTED THIS 13TH DAY OF DECEMBER 2022.

FIRST READING: NOVEMBER 8, 2022

PUBLIC HEARING ADVERTISED ON: DECEMBER 1, 2022

SECOND READING AND PUBLIC HEARING: DECEMBER 13, 2022



KATHY STARK, MAYOR

ATTEST:



ELISE HUI, TOWN CLERK

Approved for form:



Attorney
Stephanie Velo, Esq.



Exhibit "A"

Chapter 49 SPECIAL EVENTS

§ 49-1. Title; authority.

- (a) This chapter shall be known and may be cited as the "Town of Oakland Special Events Permit Ordinance."
- (b) The Town Commission of the Town of Oakland has the authority to adopt this chapter pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

§ 49-2. Purpose.

The Town Commission recognizes the impact that special events have on the availability of town services, and the Town Commission further recognizes the dangerous nature of fireworks to the health, safety, and welfare of the citizens of Oakland, Florida, and, therefore, hereby adopts this procedure to regulate activities of this nature.

§ 49-3. Definitions.

The following words, terms, and phrases shall have the meanings respectively ascribed to them in this section when used in this chapter, except where the context clearly requires otherwise:

- (a) **FIREWORKS.** The definition of "Fireworks" as set forth in 791.01(4)(a) - (c), Fla. Stat. is incorporated herein.
- (b) **SPECIAL EVENT.** Any activity, ceremony, exhibition, show, concert, pageant, rally, parade, demonstration, or assembly other than the normal day-to-day or seasonal operations of concerns licensed or established within the town. In general, special events will have impacts on a significant number of neighboring properties and/or traffic circulation within a portion of the town. Special events are classified according to their size and location:
 - (1) **Public Event.** Any activity open to the public where at least 150 persons are expected to be present at one time and no street closure is necessary.
 - (2) **Large Public Event.** A public event for which closure of one or more street or trail segments is requested.
 - (3) **Street Party.** Any event where a significant portion will occur in the street right of way, including events sponsored by a neighborhood or homeowners association, regardless of the planned number of attendees.
- (c) **SPECIAL EVENT PERMIT (PERMIT).** The permit required by §49-4 of this chapter.

§ 49-4. Permit required; exceptions.

- (a) No person shall advertise, engage in, participate in, aid, form, or start any special event, unless a special event permit shall first have been obtained from the Town Manager or his/her designee.

(b) Exceptions. This section shall not apply to:

- (1) Funeral processions.
- (2) Lawful picketing. Lawful picketing shall be conducted off the street or roadway and not in a manner as to obstruct vehicular or pedestrian traffic. Any lawful picketing which crosses, traverses, or is otherwise conducted in or upon any street or roadway shall not be exempted from the permit requirement.
- (3) Activities of a governmental agency.
- (4) Any bona fide athletic event or contest that is scheduled and sponsored by any bona fide elementary or secondary school situated within the town or by the town itself so long as during such special event no fireworks shall be used, exploded, or displayed.
- (5) Events conducted solely on the premises of a commercial enterprise, such as a parking lot sale, or on the grounds of a not-for-profit organization, unless public roads are impacted. Organizers of such events are encouraged to work with town staff to accommodate pedestrian and vehicular traffic, parking, and other aspects of the event so as to reduce its impact on surrounding properties.

(c) None of the exceptions listed in paragraph (b), above, shall imply exemption from other provisions of Town Code, such as the need to secure the appropriate permits for tents and other facilities to be employed at the event. In no case shall any event that includes the use of fireworks be exempt from the provisions of this chapter.

§ 49-5. Permit application.

- (a) Any person seeking a special event permit shall file an application with the town in the manner and place described on the form created for such purpose.
- (b) Filing period. A permit application shall be filed not more than 180 days and not less than 45 days before the date and time at which the proposed special event is to take place. However, for just cause, the Town Manager or his/her designee may waive the maximum 180-day or minimum 45-day filing period and accept an application filed within a longer or shorter period, if, after consideration of the date, time, place, and nature of the special event, the number of participants, and the necessity for town services required in connection with the special event, the Town Manager or his/her designee reasonably deems it appropriate to waive the filing period requirement.
- (c) Contents. The application for a permit shall set forth the following information and such other information as may be reasonably required:
 - (1) The name, place of residence, mailing address, and telephone number of the person applying for the permit.
 - (2) If the event is to be conducted for, on behalf of, or by an organization, then the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible head(s) of such organization.

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- (3) The name, place of residence, mailing address, and telephone number of the individual person responsible for conducting the event, if different from the applicant.
 - (4) The dates and times proposed for the event.
 - (5) The exact location of the event.
 - (6) The nature and types of activities that will occur.
 - (7) The approximate number of spectators and participants present or participating in the event.
 - (8) The purpose of the event.
 - (9) The number and size of any tents to be used for the event. Tents greater than 10 feet by 20 feet in outer dimension will require a town permit to ensure that the tent meets the tiedown and fire-resistance requirements established by law or regulation.
 - (10) If the event is a parade, the following additional information shall be required:
 - a. The exact location of any marshaling, staging, dispersing, and participant pickup area(s) for the parade.
 - b. The time at which units of the parade will begin to arrive at the staging area(s), and the times at which all such units will be dispersed therefrom.
 - c. The exact route to be traveled, including the starting and termination points.
 - d. The approximate number of persons, animals, and vehicles that will participate in the parade, including a description of the types of animals and vehicles to be used and/or permitted, if any.
 - e. A statement as to whether the parade will occupy all or only a portion of the width of the street, roadway, or sidewalks to be used.
 - (11) A designation of any public facilities or equipment proposed to be utilized.
 - (12) A state permit, if a state roadway is to be used for part or all of the parade route.
 - (13) The type, number, and source of toilet and sanitary facilities to be provided for participants and observers of the event, when and where they will be placed, and when they will be removed.
 - (14) The manner in which trash control and removal will be provided. The applicant may indicate a desire for the town to provide this service at a cost to be paid by the person or organization proposing to conduct the event.
 - (15) The type, number, and source of crowd control personnel. The applicant may indicate a desire for the town to provide this service at a cost to be paid by the person or organization proposing to conduct the event.
 - (16) Liability insurance coverage naming the Town of Oakland as additional insured, including any alcohol liability insurance coverage that shall be required when alcoholic beverages are to be served or consumed.
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(17) An indication as to whether helicopters, hot-air balloons, and other passenger-carrying aerial vehicles are planned for use at the event.

- (d) Routing of applications for review. Special event permit applications shall be routed by the Town Manager or his/her designee to the appropriate reviewers, such as the town's Chief of Police, the town's Public Works Director, a designated person in the Orange County Fire and Rescue Department (OCFRD), and other persons and/or agencies with the expertise required to thoroughly access impacts of the proposed event, evaluate the adequacy of required insurance coverage, and identify any precautions or actions needed to ensure the safe conduct of the event with minimal impacts on the town's facilities, other property, and the continuation of normal activities.

§ 49-6. Fireworks displays.

No person, firm, partnership, or corporation shall use or explode any fireworks unless a permit shall first have been obtained from the Town Manager pursuant to all rules and regulations applicable to the special events procedure contained herein. This requirement applies even when the event's activities are undertaken for or in cooperation with the town. In addition to all the requirements outlined in the special events procedure permit application, the applicant shall additionally file the following information with the Town Manager or his/her designee for distribution to the OCFRD and the Chief of Police:

- (1) A detailed listing of the type and quantity of fireworks to be used.
- (2) A detailed written statement outlining all appropriate safety procedures that will be used at the fireworks display to protect the safety of the public and all surrounding property.
- (3) A detailed written statement describing what facilities and containers will be used to store fireworks.
- (4) If applicable, the applicant's federal license number for transporting fireworks across state lines.
- (5) A detailed list of the names, addresses, occupations, and backgrounds of all individuals who will be responsible for the actual display, use, or explosion of any fireworks. The backgrounds statement should include a complete history of the experience of the individuals involved with respect to their role in the special event.

§ 49-7. Police protection.

When appropriate to the type of proposed special event, and after obtaining as much information as reasonably deemed necessary regarding the event, the town's Chief of Police shall determine whether and to what extent additional police protection will be required for the event to provide traffic management, crowd control, and security. If additional police protection is deemed necessary by the Chief of Police, she/he shall so inform the applicant, who shall then have the obligation to secure police protection acceptable to the Chief of Police at the sole expense of the applicant and may be required to prepay the expenses of such protection. If the applicant has indicated a desire for the town to supply police protection services, an estimate of these costs will be provided to the applicant prior to the issuance of a permit.

§ 49-8. Fire protection and emergency medical services.

- (a) After receiving notification of the intended event, the OCFRD shall determine the need for onsite fire watch or emergency medical personnel. In making this determination, the OCFRD shall consider such factors as the location of the proposed special event, number of anticipated participants and spectators, and the type of event, including the application of appropriate codes and ordinances. If fire watch and/or emergency medical personnel for the event are deemed necessary by the OCFRD, they shall so inform the applicant, who shall have the obligation to secure fire watch and/or medical personnel reasonably acceptable to OCFRD at the sole expense of the applicant and shall prepay the expenses of such protection, as required. If the applicant has indicated a desire for OCFRD to supply fire watch and/or emergency medical services, an estimate of these costs will be provided to the applicant prior to the issuance of a permit.
- (b) The conduct of the event shall not introduce extraordinary hazard to fire protection and/or to the life or safety of the spectators or participants in the immediate or adjacent areas.

§ 49-9. Trash control and removal.

When appropriate for the type of proposed special event, the town's Public Works Director or his/her designee shall evaluate the potential for trash to be generated by the event and its participants and observers in consideration of the applicant's proposed manner of collecting and disposing of such trash (hereinafter referred to as "trash control"). If the Public Works Director or his/her designed determines that the proposed manner of trash control is inadequate, then he/she shall determine whether and to what extent additional measures need to be provided and so inform the permit applicant. The applicant shall then have the obligation to secure additional trash control acceptable to the Public Works Director or his/her designee at the sole expense of the applicant and may be required to prepay the expenses of such additional trash control. If the applicant has indicated a desire for the town to provide trash control services, an estimate of these costs will be provided to the applicant prior to the issuance of a permit.

§ 49-10. Standards for permit issuance.

The Town Manager or his/her designee shall issue a permit, as provided herein, upon receipt of verification from the reviewers of the application for such a permit that the following standards for issuance of the permit have been satisfied or found not applicable to the proposed special event:

- (a) The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrians or vehicular traffic in or contiguous to the route or location of the event.
- (b) The conduct of the event will not require the diversion of so many public safety personnel or equipment to properly secure the event area and the areas contiguous thereto that it precludes the current level of public safety services from being furnished to other parts of the town.
- (c) A commitment from the permit applicant that the event shall not take place until inspections by concerned oversight agencies, such as OCFRD, Public Works, and Police, have been conducted and a determination has been made that all regulations, ordinances, and permit conditions have been met and satisfied.

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- (d) The concentration of persons, animals, and/or vehicles at the event will not unduly interfere with proper fire and police protection or ambulance service in areas contiguous to the event area and elsewhere in the town.
 - (e) The conduct of the event participants and observers is not reasonably likely to cause injury, is not intended to cause injury to persons or property, and will not support disorderly conduct, as defined by Florida Statutes, provided that, under no circumstances, may the Town Manager or his/her designee deny a permit solely on the basis of the proposed content, speech, or ideas of the group involved.
 - (f) Adequate sanitation, trash control, and other required facilities needed to preserve the health, safety, and welfare of participants, observers, and residents and businesses in the surrounding area are or will be made available in or adjacent to the event area.
 - (g) The conduct of the event's participants and observers will not result in noise at a level inappropriate for the time(s) and area(s) surrounding the event.
 - (h) There are sufficient parking places near the event to accommodate the approximate number of automobiles reasonably expected to be driven to the event site, with such number to be reasonably estimated by the permit applicant and reviewed by the Chief of Police.
 - (i) The applicant has secured police, fire, and emergency medical services protection, if any, required under this procedure and has prepaid the expenses therefor.
 - (j) If the special event is a parade, such parade is not to be held for the primary purpose of advertising any product, goods, or separate event that is primarily for private profit, provided that the prohibition against advertising any product, goods, or separate event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used to conduct the event.
 - (k) If the special event is to take place in any publicly owned or controlled property, acceptable public liability and property damage insurance with the town named as an additionally insured party shall be obtained in an amount approved by the Town Manager.
 - (l) If the special event involves the distribution or sale of alcoholic beverages, that all required certifications and permits have been obtained from other agencies and that alcohol liability insurance with terms and coverages acceptable to the Town Manager has been provided in the amount required by the town.
 - (m) If the special event is a parade and if the parade will utilize or traverse a state highway or county road, the applicant must also have a permit from the Florida Department of Transportation or Orange County, as may be applicable.
 - (n) Review and approval by the Town Commission may be required for public and street events of 150 persons or more, depending on conditions. Review and approval by the Town Commission is mandatory for public events on town property where 350 or more people are reasonably anticipated to be in attendance, or where there is a request for street closure. Such approvals must be secured at least four (4) weeks prior to the date of the planned event.

§ 49-11. Notice of rejection.

Should the application be denied, the Town Manager or his/her designee shall notify the applicant by personal delivery, certified mail, or in such other manner as may have been chosen by the applicant within seven (7) working days of the denial. This notification shall include the reasons for the denial and the appeal procedure.

§ 49-12. Appeals.

Any applicant aggrieved by the denying of a permit by the Town Manager shall have the right to appeal the denial of a permit or revocation of permit under §49-14 hereof to the Town Commission. The appeal shall be taken by the applicant within five (5) days after receipt of the notice of denial by filing a written notice with the Town Clerk. The Town Clerk shall place the appeal on the next available agenda for Town Commission consideration.

§ 49-13. Notice of issuance.

Immediately upon issuance of a permit to the applicant, the Town Manager or his/her designee shall forward a copy of the permit, application, and any related supplemental documents to the following:

- (1) The Public Works Director.
- (2) The Chief of Police.
- (3) The person designated by OCFRD.
- (4) The town's Administrative Services Manager.
- (5) The Mayor and Town Commissioners.
- (6) Other persons and organizations who may be significantly impacted by the event.

§ 49-14. Duties of permit holder.

A permit holder hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The event chairperson, if any, as agent of the permit holder, shall maintain custody of the permit and upon demand shall produce it to the town's authorities. Under no circumstances may a permit be transferred from the applicant to any other person or organization.

§ 49-15. Revocation of permit.

The Chief of Police, OCFRD, Town Manager, or their designated representative(s) shall have the authority to instantly revoke a permit issued hereunder upon violation of any one or more of the town's ordinances, permit conditions, or standards of issuance, as herein set forth.

§ 49-16. Indemnification.

The applicant and any other persons, organizations, or business entities on whose behalf the special event permit application has been filed shall represent, stipulate, contract, and agree that they jointly and severally indemnify and hold the town harmless against all expenses and liability, whether or not the special event permit is granted or revoked, including court costs and attorney's fees (including appeals) or any and all claims for damage to property or injury to or death of persons arising out of or resulting from

the issuance or non-issuance of the special event permit, the conduct of the event or actions of any of its participants, or the revocation of the permit.

§ 49-17. Use of town facilities.

Many events will use utilize town-owned facilities. The efficient and fair utilization of town-owned facilities is best achieved by adopting a schedule of reasonable rates and rules. The Town Commission is hereby authorized to adopt a resolution that includes such rates and rules for short-term use of buildings, parks, and other facilities for private and public events. The schedule of fees may include different rates for town citizens, non-citizens, non-profit organizations, businesses, and other identifiable groups. Rates should minimally cover the full cost of site preparation, set-up, reconfiguration, staff monitoring, clean-up, restoration for normal use, and other elements of facility utilization. Security deposits and other mechanisms should be employed to ensure that facilities are well cared for by their users and the town is fully compensated for any damages incurred. The town may additionally include fees for supporting services and products the town may choose to supply to facility users, such as use of town-owned equipment, linens, consumable goods, and the services described elsewhere in this chapter, and may employ a list of preferred vendors for facility users to utilize for selected services and products. The Town Commission may, by the language of the resolution, grant the authority to the Town Manager or his/her designee to negotiate or waive facility usage and related fees when it is advantageous to the town to do so.

§ 49-18. Construction of provisions.

Nothing in this chapter shall be construed to exempt the applicant or any other person from the requirements in federal law or regulations, Florida Statutes, Florida Administrative Code, Orange County Code, Town of Oakland Code, or any other applicable state, federal or local law or regulation.