

ORDINANCE NO. 11- 1576

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CREATING CHAPTER 35 “EVENTS” AND ARTICLE I “SPECIAL EVENTS” AND SPECIFICALLY CREATING SECTIONS 35-1 “PERMITS FOR SPECIAL EVENTS”, SECTION 35-2 “EXEMPTIONS”; SECTION 35-3 “ENFORCEMENT AND SPECIAL EVENTS RECYCLING”; AND 35-4 “COORDINATION WITH TOWN POLICE DEPARTMENT” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, special events such as fairs, arts, art-centered performances, festivals, concerts, marathons, downtown promotions, sporting and beach activities and others, bring citizens and tourists together in the Town to share a day, a week or an hour of community fun and help weave the fabric of our community by creating opportunities to interact, celebrate, enrich people's lives, promote inclusiveness, and promote tourism.

WHEREAS, the Town of Surfside (“Town”) proposes to amend its Code of Ordinances to establish guidelines for special event permitting in order to address health safety and welfare issues including but not limited to planning for additional staffing and/ or police services, having proper insurance coverage in place from the sponsors of the events, and having the town indemnified, providing necessary traffic co-ordination, and noise and crowd control issues.

WHEREAS, The Town Commission held its first public reading on June 14, 2011 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on July 12, 2011 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Chapter 35. Events

Article I. Special Events.

Section 35-1. Permits for special events.

- a) Authorized. Upon written application to the Town Manager or designee submitted a minimum of ten days prior to an event at which noise levels are expected to violate Chapter 54 of this Code, the prohibitions or hour restrictions contained herein may be modified subject to such conditions as the Town Manager may impose. The decision of the Town Manager shall be final and not subject to appeal, except by writ of certiorari in accordance with law.
- b) Application. The application for a permit under this section shall contain the following information:
 - 1) The name, date of birth, address and telephone number of the person who will be in charge of the activity or event for which a permit is requested;
 - 2) The name of the person or entity seeking the permit;
 - 3) The exact date and time or period of time for which the permit is sought;
 - 4) The exact location of the activity or event for which a permit is requested; and
 - 5) A description of the activity or event for which a permit is requested.
- c) Contents. Permits issued under this section shall specify the date and time during which the activity or event authorized by the permit may be conducted.
- d) Administrative procedures. The Town Manager is hereby authorized to promulgate reasonable rules and procedures for application for, issuance and revocation of such permits. These rules and procedures shall serve to implement the intent and purpose of

this article so that necessary and beneficial activities may occur while providing for protection of the public.

- e) Criteria for issuance; bond. Issuance of a permit under this section shall be based on a determination by the Town Manager or designee that the activity or event for which a permit is requested does not constitute a threat to public safety, constitute a danger or impediment to the normal flow of traffic, or constitute a potential disturbance of the peace and quiet of persons outside the premises where the activity or event is located. A permit application indicating the use of a temporary structure shall comply with the terms of Section 90-36.1 of the Code. The Town Manager or his designee may require that a bond be posted in an amount sufficient to secure the costs of cleanup, repair or replacement of damage or destruction of property, and the bond shall be subject to forfeiture for purposes of paying any such costs.
- f) Indemnification. The applicant for a permit to hold a special event shall agree to indemnify and hold harmless the Town, its agents and employees, for any and all claims caused by or arising out of the activities permitted. In certain potentially hazardous situations, as determined by the Town Manager, the applicant shall provide an appropriate policy of insurance to protect the Town from liability policy of insurance to protect the Town from liability that may result from the special event.

Section 35-2. Exemptions.

The terms and prohibitions of this article shall not be applied to or enforced against:

- a) Any motor vehicle, motorboat or other vehicle of the Town, the County or the State or licensed public utility vehicle within the Town while engaged in necessary public business.
- b) Excavation or repairs of streets, sidewalks, highways, streetlights or utilities, by or on behalf of the Town, the County or the State, or performance of such work during the night if the public welfare and convenience renders it impossible to perform such work during the day.
- c) A reasonable use of amplifiers or loudspeakers in the course of public addresses or gatherings which are noncommercial in character, noise generated in the course of a special activity or event which has obtained a permit pursuant to section 35-1, noise generated for the purpose of alerting persons to the existence of an emergency, or noise generated in the performance of emergency work.
- d) Government sponsored special events.

Section 35-3. Enforcement And Recycling

A. Enforcement

1. Permits shall be maintained at the site on which the special event occurs. Upon request of any police officer or code compliance officer of the Town, the owner, lessee of the property or other representative of the special event, shall produce such permit for inspection.
2. Persons engaged in a special event without a permit, or otherwise in violation of a permit, this section or the special events requirements and guidelines provided for herein, shall be subject to enforcement by Town police or code enforcement officers, through the issuance of immediate cease-and-desist orders, the violation of which may subject the offender to arrest, and/or enforcement as provided under the Town Code, and/or notices of violation referred to special masters, who have authority to issue fines or enforce compliance, as provided for in Chapter 15 of this Code. Police or code enforcement officers will coordinate enforcement with Town departments as deemed necessary. As an alternate and supplemental remedy, the Town may enforce this section by injunctive relief in any court of competent jurisdiction, and in such circumstance the Town shall be entitled to recover its reasonable attorneys' fees and costs. For repeat offenders, the Town manager or designee may decline to issue permits to such person or entity for one year, or such other period as the Town Manager deems appropriate.

B. Minimum Standards for Recycling at Special Events.

- a) Any person seeking a permit for a special event within the Town of Surfside shall complete and submit with their permit application to Public Works a Special Event Recycling Plan. In addition, promotional literature, signage and temporary event announcements shall contain information about recycling at the temporary event.
- b) The Town shall review the Recycling Plan and determine whether the plan includes reasonable measures to promote recycling, especially for paper, cardboard, and beverage containers made of plastic, glass and aluminum.
- c) The Town Manager or designee shall be allowed to attend the temporary event at no charge, solely for the purpose of assisting with and verifying the recycling efforts.
- d) If the temporary event will not generate more than one, ninety-six (96) gallon container of non-separated solid waste for disposal, an administrative variance may be requested from the requirements to collect recyclable materials. The Town Manager will establish a procedure for the consideration of an administrative variance from the requirements in this section if the Town Manager concludes a good faith effort has been made to satisfy the requirements herein.
- e) The permittee shall provide at least one recyclable materials collection container for each solid waste container provided at the temporary event. The recyclable materials collection containers shall be clearly labeled and placed in the same locations as each solid waste container. The permittee shall arrange for the contents of the recyclable materials collection containers to be delivered to a recycling center or similar facility.
- f) If the permittee self-hauls recyclables from temporary events to a recycling center or similar facility, the permittee shall deliver a copy of the recycling center/facility receipt to the Town by fax, e-mail or mail within 30 days of the event.
- g) All temporary event organizers are encouraged to hold a pre-event recycling workshop for vendors and volunteers.

Section 35-4. Coordination with Town Police Department.

- a) For the safety of participants, volunteers, and other attendees, police may be necessary for the special event. If within the judgment of the Town Manager, police presence is required, a special event permit applicant shall be required to coordinate scheduling of the special event in advance with the Town of Surfside Police Department.
- b) If a private security firm or individuals associated with the event are acting as security guards, the event promoter shall indicate same in the special event application. The Police Department will also coordinate with each promoter how many Town police officers the promoter will need to hire for street closure and other responsibilities. All races/walks will be required to hire Town police officers in order to help close the roads and monitor street closings.
- c) The cost for providing off-duty police services will vary based on whether the event is a Town-sponsored event or a privately sponsored event. For privately sponsored events, the applicant will contact the Police Chief's Office and speak to the Police Chief or his designee. The Police Chief will determine the number of officers needed and will provide the applicant with an off-duty police detail contract, which must be completed and turned in as quickly as possible. The estimated fee for off-duty police services will be determined when the Police Chief receives a finalized site map. Payments will be billed by the Chief's Office according to the off-duty police detail contract.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

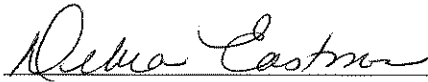
PASSED and ADOPTED on first reading this 14th day of June, 2011.

PASSED and ADOPTED on second reading this 12 day of July, 2011.



Daniel Dietch, Mayor

Attest:



Debra E. Eastman, M.M.C., Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On ~~Second~~ Reading Moved by: Commissioner Kopelman

On Second Reading Seconded by: Commissioner Karukin

Vote:

Mayor Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Graubart	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Kopelman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Olchyk	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>