

LEE COUNTY ORDINANCE NO. 14-15

AN ORDINANCE OF LEE COUNTY, FLORIDA REPEALING AND REPLACING ORDINANCE NO. 91-26 REGULATING INDOOR AND OUTDOOR ENTERTAINMENT EVENTS; PROVIDING FOR EVENT PERMITTING WITHIN THE COUNTY; PROVIDING FOR DEFINITIONS; ESTABLISHING REQUIREMENTS AND APPLICATION PROCEDURES; REQUIRING PROOF OF LIABILITY INSURANCE AND BOND; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY; CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Lee County, Florida, is the governing body in and for Lee County, Florida; and

WHEREAS, the Legislature of the State of Florida has, pursuant to Chapter 125, Florida Statutes, delegated the responsibility to local governmental units authorization to adopt regulations designed to promote the public health, safety, and general welfare of its citizens; and

WHEREAS, the Board finds it is in the best interests of the health, safety and welfare of the people of Lee County to establish reasonable regulations for conducting outdoor events; and

WHEREAS, the Board finds it is in the best interests of the public to repeal the provisions of Ordinance No. 91-26 and replace the provisions as set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that:

SECTION ONE: **AUTHORITY**

The provisions of this Ordinance are enacted pursuant to the statutory and home rule powers of the County to establish and enforce regulations necessary for the protection of the public.

SECTION TWO: **REPEALER**

Lee County Ordinance No. 91-26 is hereby repealed and the terms and conditions are of no further effect.

SECTION THREE: **TITLE**

This ordinance is titled and may be cited as the "Lee County Special Events Permitting Ordinance".

SECTION FOUR: **DEFINITIONS**

The following words and phrases, when used in this Ordinance are defined as follows:

Special Event means a temporary preplanned gathering or event of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any other nature, that is sponsored by an individual or entity and is open to the public in general with an expected attendance of 1,000 or more, whether on public or private property.

Use of County Property means an event being held within unincorporated Lee County, in a County park or facility.

Sale or consumption of alcohol within Lee County facilities and public parks means an event being held within a County facility or public park at which alcohol is to be sold or consumed.

Film means a production of a feature film, TV special/commercial/pilot/series, industrial film/video or photography shoot.

Public Property means property that is owned, leased, operated, maintained or controlled by County.

Private Property means property that is owned, leased, operated, maintained or controlled by one or more individuals or private entities.

SECTION FIVE: **PERMIT**

1. **Required.** The following event types require a permit:

- a. An event that is expected to draw 1,000 or more persons at any session as participants or spectators, which is proposed to be held on public or private property; and/or
- b. An event that is expected to be held on public property or within a County park; and/or
- c. An event at which alcohol is expected to be sold or consumed within a County facility or public park; and/or
- d. An event at which filming or photography will affect public property or on private property and incorporating pyrotechnics, explosives or other

incendiary devices, firearms or use of gunfire or involves stunts of any kind.

2. **Application.** At least thirty (30) days prior to the scheduled start of the event, the completed application with descriptive plans for all arrangements must be submitted to the Public Resources Department along with any applicable fees as outlined in the External Fees and Charges Manual as may be amended from time to time. The applicant must comply with any and all conditions set forth in the application by the required sign-off agencies and as required by the County Manager or designee.
3. **Conditions.** The County reserves the right to establish such additional conditions, criteria or detailed specifications for the special event permit as it may deem necessary to carry out the intent of this article, for the protection of the public health, safety and welfare of the public.
4. **Advertising.** No person, corporation, partnership, or other organization may advertise, conduct, maintain, or sell or furnish tickets for an outdoor concert or event in Lee County unless and until that person or entity has obtained a permit from the County.
5. **Insurance.** The Applicant, at its sole expense, agrees to procure and maintain in force during the entire term of the application, liability insurance in the amounts determined by Lee County Risk Management to protect against damages or other claims arising from use of County property by the applicant or its guests. Other limits may also be established by Lee County Risk Management for events which will be serving or consuming alcoholic beverages at approved County property. The insurance policy must also include coverage for Applicant's contingent liability on damages, claims or losses. "Lee County Board of County Commissioners" must be named as "additional insured" on the Certificate of Insurance, and the Certificate must be delivered to Lee County prior to Applicant's use of the property. The Insurance may not be canceled during the term of the event, if this occurs, the County has the right to revoke approvals related to use of the County property for the event, without recourse by the applicant.
6. **Bond.** At its discretion, subject to other applicable laws or ordinances, Lee County may require an indemnity and/or performance security bond for an event. The bond must be with a corporate bonding company authorized to do business in the State of Florida, or a cash bond in the form of a cashier's check payable to the Board of Lee County Commissioners. The bond must indemnify Lee County, its agents or employees against any and all claims arising out of the preparations, conduct or aftermath of the event.

SECTION SIX: **INDEMNIFICATION**

The Applicant agrees to indemnify, release and save harmless Lee County Board of County Commissioners against any and all claims, costs, demands, damages, judgments or injuries of any nature arising from the conduct or management of, or from any work or thing whatsoever done in or about County property or any building or structure appurtenant thereto or equipment thereof during the term of this Permit, or arising during the term of use from any act of negligence of the Applicant, Applicant's agents, contractors, or employees, or arising from any accident, injury, or damage whatsoever, however caused, to any person or persons, or to any property of any person, persons, corporation or corporations, occurring during the term of this agreement on, in, or about said County property, and from and against all costs, attorney's fees, expenses and liabilities occurring in connection with any such claim or any action or proceeding brought thereon.

SECTION SEVEN: **DELIVERY, ACCEPTANCE AND SURRENDER OF PREMISES**

1. The Applicant agrees to accept the County property on possession as being in a satisfactory state of repair and in sanitary condition.
2. The Applicant must surrender the premises to Lee County in the same condition as when Applicant takes possession, allowing for reasonable use and wear, and damage by acts of God. Applicant agrees to remove all business signs or symbols placed on the premises by the Applicant before redelivery of the premises to Lee County, and restore the premises to the condition in which it existed before their placement. Any signs and markings created or used in connection with this event must be temporary and removable; painting roadways, trees or any other fixed object is strictly prohibited. Applicant agrees to clear the Lee County property of litter at the close of the event.

SECTION EIGHT: **CONSIDERATION OF APPLICATION**

Upon receipt of the completed application with all required attachments, the County Manager or designee must review and make final determination on all applications. The County Manager or designee will approve applications when all conditions have been met. The County reserves the right to deny any applications. Should the application be denied, it will be in writing and for good cause. Good cause would be, but not limited to, failure to comply with the necessary arrangements dictated by the sign-off agencies or an event that would create a severe and actual nuisance to the surrounding community.

SECTION NINE: **VIOLATIONS**

The County may revoke the event permit granted under this article upon the occurrence of any violation of this Ordinance.

SECTION TEN: **MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION ELEVEN: **CONFLICTS OF LAW**

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION TWELVE: **SEVERABILITY**

It is the Board of County Commissioners' intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION THIRTEEN: **CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance", can be changed to "section", "article", or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or designee, without the need for a public hearing.

SECTION FOURTEEN: **EFFECTIVE DATE**

This Ordinance must become effective immediately upon receipt of official acknowledgement of the Office of Secretary of State of Florida that this Ordinance has been filed with said office.

Commissioner Manning made a motion to adopt the foregoing ordinance, seconded by Commissioner Mann. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED THIS 5th day of August, 2014.

ATTEST: LINDA DOGGETT
CLERK OF COURTS

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Larry Kiker
Larry Kiker, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

BY: Andrew H. Furr
Office of the County Attorney



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

August 6, 2014

Honorable Linda Doggett
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Marcia Wilson, Deputy Clerk

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy for Lee County Ordinance No. 14-15, which was filed in this office on August 6, 2014.

Sincerely,

Liz Cloud
Program Administrator

LC/elr