

ORDINANCE NO. 5753

AN ORDINANCE TO MAKE VARIOUS AMENDMENTS TO CHAPTER 12.56 OF THE CODE OF THE CITY OF ELIZABETH, ENTITLED "FESTIVALS," INCLUDING RENAMING THE CHAPTER TO "SPECIAL EVENTS", IN ORDER TO CREATE A MORE EFFICIENT PERMITTING PROCESS

WHEREAS, Chapter 12.56 of the Code of the City of Elizabeth, entitled "Festivals," allows for operators intending to sponsor a festival within the City of Elizabeth to apply for a festival permit and to pay a non-refundable fee, as well as vendor fees, if applicable, and a bond requirement; and

WHEREAS, Chapter 12.56 also allows certain organizations to be exempt from paying the permitting fee for various circumstances; and

WHEREAS, in practice, there has been uncertainty in granting fee exemptions to certain organizations in terms of which fees and obligations the City was agreeing to waive; and

WHEREAS, in order to remove any uncertainty in the process, certain additions and amendments are necessary to ensure that both the City and the special event operators are meeting their obligations in permitting for a special event; and

WHEREAS, previously, Chapter 12.76 did not permit a fee exemption for not-for-profit organizations, despite their contributions to the City of Elizabeth and its residents; and

WHEREAS, the City Council of the City of Elizabeth deems it necessary and proper to charge a discounted permit fee for 501(c)(3) organizations, as well as waiver of a newly imposed application fee and discretionary waiver of other requirements depending on the type of event; and

WHEREAS, further, religious organizations and operators co-sponsoring events with the City of Elizabeth will no longer be permanently exempt from remitting a permit fee prior to the date of the special event in order to remain consistent with the intent of allow fee waivers for need-based reasons to 501(c)(3) organizations; and now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. Section 12.56.010 of the Code of the City of Elizabeth, entitled "Definitions," is hereby amended to read as follows:

The following definitions shall apply to the interpretation and enforcement of this chapter:

"501(c)(3) organization" means an organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational, or other specified purposes and that meet certain other requirements, are tax exempt under Internal Revenue Code Section 501(c)(3).

"City" means the city of Elizabeth.

"City council" means the city council of the city of Elizabeth.

"Festival" "Special Event" means a series of related events or performances conducted on city property, sidewalks, streets and other public rights-of-ways, including but not limited to parades, marching processions, fundraisers, races, festive activities, cultural events, exhibitions, competitions, collection of shows, live entertainment and other amusement or social enterprises, ~~and/or~~ that may or may not include the dispensation of food, which is open to the public at large.

"License" "Permit" means the permission in writing from the ~~supervisor of~~ Licenses Chief License Inspector of the city, issued in accordance with the provisions of this chapter or other applicable law, to carry out a festival special event.

PRESENTED to the Mayor for
APPROVAL or DISAPPROVAL on

DEC 14 2022

City Clerk

"Person" means every natural person, co-partnership, association or corporation, whether profit or nonprofit.

~~"Sponsor"~~ "Applicant" or "Operator" means the person ~~or entity~~ who executes the application for a license permit to conduct a festival special event or is the operator of the festival special event.

~~"Supervisor of Licenses"~~ "Chief License Inspector" means the city officer in charge of receiving applications for and the issuance of licenses, permits or their designee.

"Vendor" means a person who operates, during the life of the license permit, a booth or a stand or otherwise occupies space in which he conducts games of skill or chance or dispenses food and beverage or the like.

SECTION 2. Section 12.56.030 of the Code of the City of Elizabeth, entitled "Licenses," is hereby amended to read as follows:

12.56.030 – Licenses: Permits Required.

A. No special event shall be held in the city unless a permit has been obtained as set forth herein, except the following shall be exempt from the requirements of this chapter:

1. Funeral and wedding processions.
2. A governmental agency within the scope of its duties or functions.
3. Students participating in educational activities under the authorization of proper school authorities.

~~A. B.~~ No license permit for a festival or other activity of a similar nature special event shall be considered or issued unless and until the sponsor applicant desiring to conduct the affair shall have made and signed a written application to the ~~supervisor of licenses~~ Chief License Inspector for an operator's license permit in the form provided by the city and paid the proper fee therefor when required, not less than two weeks prior to the first day of operation of the proposed festival special event.

B. C. The issuance of the festival special event operator's license permit shall be further conditioned upon the following:

1. The ~~sponsor applicant~~ requesting and obtaining from the mayor of the city permission to close the street or streets necessary to conduct the festival special event, in accordance with the terms of Section 10.20.010 et seq. of this code, incorporated by reference herein as if fully set forth.

2. The ~~sponsor applicant~~ requesting and obtaining from the city council of the city permission to use property owned by the city as well as sidewalks and other rights-of-ways.

3. The ~~sponsor applicant~~ and/or vendors executing ~~an a~~ notarized indemnification agreement in a manner proscribed by the Chief License Inspector on behalf of the city substantially as follows:

~~"The sponsor applicant and/or vendor hereby represent, stipulate, contract and agree that they do jointly and severally indemnify and hold harmless the City of Elizabeth against liability for any and all claims for damages to property or injury to or death of persons arising out of resulting from the issuance of the license or the conduct of the public at and during the life of the festival special event."~~

4. The approval by the fire department, upon satisfactory examination of the premises with respect to compliance with regulations as hereinafter set forth in the fire prevention section of this chapter.

5. The sponsor applicant shall deposit with the supervisor of licenses Chief License Inspector at the time of the filing of the application, in cash or by certified check made payable to the city, a bond in the sum of five thousand dollars (~~\$5,000.00~~) to be determined by Section 12.56.045(c) below to guarantee upon the termination of the festival special event that City employees will be made available to clean and clear the general area where the affair has been conducted will be left in good condition, cleaned up and cleared of all paper, waste material and debris within twenty-four (24) hours from the termination of the festival. If the sponsor fails to meet this requirement, the city, in its discretion, shall clean and restore the area to pre-festival condition, deducting the moneys spent thereon from the deposit aforementioned.

6. The sponsor operator is required to maintain a clean space during the entirety of the event and hire a private scavenger to pick up and dispose of, or notify a City employee to dispose of, any the garbage or debris generated at the festival special event which is dangerous to the public's health, safety or welfare.

SECTION 3. Section 12.56.040 of the Code of the City of Elizabeth, entitled "Fees," is hereby amended to read as follows:

A. License Fee for festival: A fee of seven hundred fifty dollars (~~\$750.00~~) shall be charged for the festival operator's license.

A. A nonrefundable processing fee of fifty dollars (\$50.00) shall accompany every application and shall be used to reimburse the City for its administrative costs in issuing a permit. The processing fee shall be waived for permits issued to 501(c)(3) organizations.

B. A nonrefundable permit fee shall be paid to the City in advance of the special event and shall be issued as follows:

1. Seven hundred and fifty dollars (\$750.00) for special events operated by any person or entity for up to three (3) days and two hundred and fifty dollars (\$250.00) for every additional day, unless they qualify for the discounted fee as described in the following provision.

2. Four hundred and fifty dollars (\$450.00) for special events operated by 501(c)(3) organizations for up to three (3) days and one hundred and fifty dollars (\$150.00) for every additional day.

B. C. Vendor License Permit Fees:

1. Non-Food Vendor: There shall be a fee for a non-food vendor's license permit in the sum of fifty dollars (\$50.00) ~~seventy-five dollars (\$75.00)~~ for the first two (2) days of operation and ~~seventy-five and fifty dollars (\$50.00) (\$75.00)~~ for each day thereafter. This fee shall be payable in advance to the Chief License Inspector ~~supervisor of licenses~~ of the city.

2. Food and Beverage Vendors. ~~Food and beverage vendors shall not be required to pay this license fee to the supervisor of licenses. Instead, Vendors~~ intending to operate food and beverage stands shall be required to obtain a license permit from the department of health and human services, division of health, and pay a fee in the sum of seventy five dollars (\$75.00) for the first two (2) days of operation and ~~seventy-five dollars (\$75.00)~~ fifty dollars (\$50.00) for each day thereafter. This fee shall be payable in advance to the department of health and human services, division of health.

SECTION 4. Section 12.56.045 of the Code of the City of Elizabeth, entitled "Insurance and Bond" is hereby added to the Code and is read as follows:

12.56.045 Insurance and Bond.

A. Before any license permit shall be granted, the sponsor operator shall provide and deposit with the city clerk of the city a public liability insurance policy in the

amount of one million dollars (\$1,000,000.00) single limit, naming the sponsor operator and the city as coinsured.

B. In addition, thereto, the sponsor operator shall hold the city harmless from any and all claims or judgments recovered against it or the city in any court of competent jurisdiction, in excess of the one-million-dollar, single limit liability insurance policy.

C. A security payment in the form of a bond shall be submitted in advance of the special event in an amount not to exceed five thousand dollars (\$5,000.00).

1. The Chief License Inspector shall have the right to lower or waive the bond requirements based upon the type of event, location, the equipment or machinery needed, location, overall scale of the event and other pertinent factors or risks associated with the event.

2. The Chief License Inspector shall determine whether a bond is required. A surety bond may be required to:

(i) ensure that city property is cleaned and returned to pre-event condition;

(ii) cover any costs incurred by the city including clean up or the hire of city employees;

(iii) protect city property if the event is held over a period of three or more days at any location.

3. The Director of Public Works or their representative may recommend to the Chief License Inspector that the bond requirement be waived or lowered if the special event operator makes specific arrangements for maintenance and clean up prior to applying for the special event permit.

4. Per the discretion of the Chief License Inspector, a certified check payable to the City of Elizabeth may be submitted to the city in lieu of a bond.

5. The bond or certified check shall be released within ten (10) days after the permit expires.

SECTION 5. Section 12.56.050 of the Code of the City of Elizabeth, entitled "Exemption from Fees," is hereby amended to read as follows:

A. Operator's License Permit. The following sponsors of festivals special event operators shall be exempt from the provisions of subsection 12.56.040A(A)-(B) and subsection 12.56.050B of this chapter. These special event operators will still be responsible for vendor fees.

~~1. Bona fide religious groups or organizations whose activities are exclusively devoted to religious purposes.~~

2. 1. The parking authority of the City of Elizabeth.

3. 2. The housing authority of the City of Elizabeth.

4. 3. The Historic Midtown Special Improvement District, the Elizabeth Avenue Special Improvement District.

5. 4. The Elizabeth Development Company.

6. ~~Co-sponsors with the City of Elizabeth, approved by resolution of the city council.~~

7. 5. Elizabeth Destination Marketing Organizations.

SECTION 6. Section 12.56.060 of the Code of the City of Elizabeth, entitled "Health and sanitary requirements" is hereby amended to read as follows:

A. All health and sanitary requirements, regulations and ~~licensing-permits~~ shall be adhered to by the ~~sponsors~~ operators and/or vendors of the festival special event, as provided for in Chapter 12 of the New Jersey State Sanitary Code and the health and sanitary code of the city, both of which are incorporated by reference herein as if fully set forth.

B. In addition thereto, the operator of a festival special event shall provide a sufficient number of temporary or permanent toilet facilities for the use of vendors and the use of the public as required by the health officer.

SECTION 7. Section 12.56.070 of the Code of the City of Elizabeth, entitled "fire prevention requirements," is hereby amended to read as follows

A. The ~~sponsor~~ operator and/or vendors, ~~with-upon the discretion and consent of the fire department, shall~~ may be authorized to install, hook and connect to fire hydrants specially marked by the fire department a master hose or other water carrying device, to supply water to the booths and stands operating at the festival special event, subject to the following provisions:

1. The fire department in its sole discretion, shall determine which fire hydrants will be used as hereinabove stated.

2. The ~~sponsor~~ operator and/or vendors shall maintain all fire hydrants within the perimeter of the festival special event free and clear of any obstruction, with the closet object located next to a fire hydrant at less than two feet in any direction from its geometrical center.

3. The ~~sponsor~~ operator and/or vendors shall meet and observe at all times the requirements of the water utility department of the city.

B. The ~~sponsor~~ operator and/or vendors, while operating a booth or stand in which there is heating or cooking apparatus for the preparation of food, shall keep at all times, in a visible, easily accessible location within the booth or stand, a fully charged fire extinguisher of the kind classified as ABC.

C. All doors or gates on entrances to and exits from the premises where the festival special event shall be conducted shall be kept open and unobstructed during the hours of operation of the festival-special event in order to facilitate the rapid ingress or egress of all persons attending, in case of an emergency.

D. It shall be the duty of the ~~sponsor~~ operator, before the ~~license-permit~~ shall issue, to provide the ~~supervisor-of-licenses~~, Chief License Inspector and the fire department with detailed sketches, drawn to scale, depicting of an emergency.

1. Location of all fire hydrants within the perimeter of the festival special event.

2. The physical layout of booths, stands, amusement rides and the lanes of traffic that shall hereinafter be set forth, showing the dimensions of the booths and stands at the location and size of the area which the amusement rides will occupy.

E. After the ~~sponsor~~ special event operator has assigned the individual booths and stands to the vendors, and the areas used for amusement rides to the operators, it shall be the duty of the ~~sponsor~~ operator by the end of the first day of the festival special event to provide the ~~supervisor-of-licenses~~ Chief License Inspector with a list in which the names, addresses and location of the vendors and operators of amusement rides shall be set forth.

F. It shall be the obligation and the duty of the ~~sponsor~~ operator to maintain, during the duration of the festival-special event, an unimpeded and unobstructed lane for emergency traffic, at least ten (10) feet in width, for the rapid ingress and egress of vehicles required for emergencies or other governmental purposes.

SECTION 8, Section 12.56.080 of the Code of the City of Elizabeth, entitled "Electrical requirements," is hereby amended to read as follows:

~~All electrical requirements, regulations and licensing shall be adhered to by the sponsors and/or vendors of the festival. The operator and/or vendors shall adhere to all~~ **electrical requirements and regulations and obtain all necessary permits**, as provided for in the electrical and construction codes of the city, both and hereby incorporated by reference herein as if fully set forth.

SECTION 9, Section 12.56.090 of the Code of the City of Elizabeth, entitled "Alcoholic Beverages – Gaming," is hereby amended to read as follows:

A. No alcoholic beverages shall be sold, served or consumed and no games of skill or chance shall be conducted during the operation of the ~~festival special event unless and before the sponsor operator or the vendors obtain a proper and legal license permit to dispense alcoholic beverages and/or conduct games of skill or chance from the State of New Jersey, the city or any other regulatory agency as required. The operators and vendors receiving such permits to dispense alcoholic beverages from the State of New Jersey shall receive an endorsement from the City of Elizabeth Alcoholic Beverage Control Office and the Police Department prior to filing a special event application.~~

B. The ~~sponsor operator and vendors receiving such licenses permits to dispense alcoholic beverages and/or conduct games of skill or chance shall be conclusively presumed to be cognizant of the provisions of the Alcoholic Beverage Law of New Jersey, of state rules and regulations in regard thereto, of Chapter 5.08, alcoholic beverages of this code, incorporated herein by reference as if fully set forth, and of all applicable federal, state and municipal laws, rules and regulations regarding the operation of games of skill or chance.~~

SECTION 10, Section 12.56.100 of the Code of the City of Elizabeth, entitled "Duration and hours of operation," is hereby amended to read as follows:

A. The duration of a ~~license permit for a festival special event shall be not more than ten (10) consecutive days, after which period it shall lapse.~~

B. The hours in which it shall be lawful to operate or permit the operation of a ~~festival special event in the city shall be between 6:00 p.m. and 11:00 p.m., Mondays to Fridays, and 12:00 noon and 11:00 p.m., Saturdays and Sundays, and on Mondays which are legal holidays.~~

SECTION 11, Section 12.56.110 of the Code of the City of Elizabeth, entitled "Availability of financial records," is repealed in its entirety.

~~A. It shall be the duty of the sponsor to furnish the city, not later than ninety (90) days from the last day of the operation of the festival, with a detailed financial statement submitted by the chief financial officer of the sponsor, certified so as to its accuracy by a licensed accountant in a form and manner satisfactory to the city's finance director. This financial record, with a profit and loss statement in the form of an affidavit attached, shall include but not be limited to fees and sources therefrom, rental derived, donations received by the sponsor and other pertinent data.~~

~~B. Failure to provide the financial statement in the manner set forth shall preclude the sponsor from applying for and receiving a festival license for future operations until this requirement has been met.~~

SECTION 12, Section 12.56.120 of the Code of the City of Elizabeth, entitled "License revocation," is hereby amended to read as follows:

A. The operator's ~~license permit or any vendor's license permit may be revoked by the supervisor of licenses at any time during the life of such license permit for any violation by the operator or individual vendor of any provision of this chapter~~

or any violation of this code or any other applicable state or federal law, in addition to the penalties set forth in the general penalties section of this chapter.

B. Anything to the contrary in this section notwithstanding, in cases of revocation of food and beverage vendors' licenses permits, such revocation shall be at the discretion of the city's director of health, welfare and housing or his or her designee.

SECTION 13. Section 12.56.130 of the Code of the City of Elizabeth, entitled "Insurance requirements," is repealed in its entirety.

~~A. Before any license shall be granted, the sponsor shall provide and deposit with the city clerk of the city a public liability insurance policy in the amount of one million dollars (\$1,000,000.00), single limit, naming the sponsor and the city as coinsured.~~

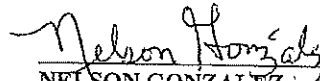
~~B. In addition thereto, the sponsor shall hold the city harmless from any and all claims or judgments recovered against it or the city in any court of competent jurisdiction, in excess of the one million dollar single limit liability insurance policy.~~

SECTION 14. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.


SECTION 15. If any portion of clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 16. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

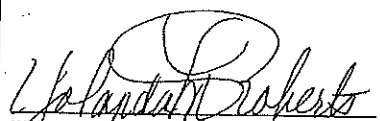
PASSED: 12/13/22


NELSON GONZALEZ
President of City Council

APPROVED: 12/14/22


J. CHRISTIAN BOLLWAGE
Mayor

ATTEST:


YOLANDA M. ROBERTS, R.M.C.
Municipal Clerk