

ORDINANCE NO. 2065

AN ORDINANCE OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER FIVE OF THE CODE OF ORDINANCES BY CREATING A NEW ARTICLE XIII REGARDING SPECIAL EVENTS, AMENDING CHAPTER 2, ARTICLE V, DIVISION 4, SECTION 2-136 BY REFORMATTING SUBPARAGRAPHS RELATED TO SPECIAL EVENTS, DELETING DUPLICATE PROVISIONS, CONTAINING A PENALTY AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS:

Section 1. That Chapter 5 of the Code of Ordinance of the City of Sugar Land is amended by adding Article XIII to read as follows:

Article XIII. Special Events.

Sec. 5-500. Purpose.

The City recognizes that special events help define the City's image, build community, drive economic activity and enhance the overall quality of life. The purpose of this article is to set forth a permitting mandate and process including criteria for Special Events. The provisions established below are meant to protect, preserve and promote the safety and welfare of the general public including but not limited to ensuring the physical safety of residents and visitors; providing for emergency, medical, fire, traffic operations, and other elements associated with the Special Event.

Sec. 5-501. Definitions. In this Article:

"City Services" means additional services (fire, police, EMS, traffic, etc.) required to protect the health, safety, and welfare of the public and arising as a direct result of the Special Event.

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

"Applicant" means the person, sponsor, promoter, operator or any of their respective agents, representatives or contractors who file a written application for a Special Events Permit.

"City Destination Venue" means property owned, leased or under control of the City and associated with a City special facility including the following: Constellation Field, Smart Financial Centre at Sugar Land, the plaza adjacent to the Smart Financial Centre at Sugar Land, the Festival Site, the Sugar Land Town Square Plaza, and similar venues attracting events for the general public.

“City Services Fee” means the funds an Applicant is to pay for the cost of City Services.

“City Produced Event” means a Special Event in which the City is a participant in organizing, planning, or implementing.

“Event Operating Plan” means a plan developed by the Applicant and includes a (1) logistical event layout (site map identifying placement of entertainment, food vending, portable restrooms, fencing, electrical plan, water access and usages, and waste management, etc.), (2) traffic plan, (3) parking plan, (4) security and safety plan, and any other plan deemed necessary by the Administrator to review a Special Events Application.

“Parade” means any planned procession of persons, animals, vehicles, or equipment moving along one or more streets in a manner intended to attract public attention and that is likely to substantially interfere with the normal use of the Street.

“Special Event” means a unique activity, occurring for a limited or fixed duration, and having an impact to public property that impedes, obstructs, impairs, interferes or disrupts normal or usual use of City property, facilities, or right-of-way. Special Event includes activities originating outside of the City limits and entering into the City resulting in an impact to public property exceeding the established capacity of such property. The term does not include the rental of a park building or other city facilities that are available to the general public for rental on a regular basis unless that rental impacts a public property by exceeding its stated capacity or requiring additional City Services.

“Special Events Permit” or “Permit” means the City’s written authorization to hold a Special Event or Street Event.

“Street” means the entire width between the boundary lines of every public right-of-way designed or maintained for vehicular traffic.

“Street Event” means either a Parade or Street Festival, or both.

“Street Festival” means a planned gathering of persons and property occupying or using a fixed location on one or more streets for a party, celebration, neighborhood gathering, or similar happening that is likely to substantially interfere with the normal use of one or more Streets.

Sec. 5-502. Administrator authority.

The Administrator may adopt, revise or rescind rules, regulations, departmental policies and procedures, create or alter programs and take action regarding the Permit processing including criteria that does not conflict with this article, council-adopted policies, or federal or state laws.

Sec. 5-503. Exceptions.

This article does not apply to:

- (a) A City Produced Event.
- (b) A Special Event conducted by an Independent School District and located at an ISD facility or on ISD property.
- (c) A Special Event located entirely in Sugar Land Town Square Plaza and permitted under Chapter 5, Article VII.
- (d) A Street Festival that will have less than 100 participants, whose participants primarily reside or have a business adjacent to the location of the Street Festival, and which is operated in a manner to allow one lane of the Street to be open at all times to allow emergency access to lots abutting the closed Street.

Sec. 5-504. Permit required.

- (a) A Special Event Permit is required:
 - (1) When a Special Event:
 - a. Impedes, obstructs, impairs, interferes or disrupts normal or usual use of City property, facilities, or right-of-way; or
 - b. Requires the use of any City Services that would not be necessary in the absence of the Special Event.
 - (2) For all Street Events unless specifically excepted in this article.
- (b) Special Event Permits must be kept on the premises during the event and made available upon request by any authorized City official.
- (c) Special Event Permits may not be sold, transferred or assigned.
- (d) Special Events held on a regular or recurring basis at the same location, and having similar implications on the provision of services, may file a single application for a Special Events Permit that would include a proposed Event Operational Plan covering all such Special Events during an identified 12 month period. The ability to file a single application for a regular or recurring event will be determined by variables such as, but not limited to, location of event,

expected attendance, traffic control requirements, security needs, and time of day of the event.

- (e) The issuance of a Special Events Permit under this Article does not satisfy the requirement to obtain any other permit or approval required by this Code.

Sec. 5-505. Permit application.

An Applicant seeking a Special Events Permit must file an application with the Administrator on the City issued form provided for that purpose and accompanied with the appropriate permit fee. A complete application must be filed not less than 45 calendar days before the first date of the proposed date of the Special Event. The application must be signed by the Applicant for the Special Event and must include at a minimum the following information:

- (a) The name, mailing address, email and telephone number, including cellular, of the Applicant seeking to conduct the Special Event. If it is an entity, local, regional or national headquarters, information shall be provided as well as the name of the individual making application on behalf of such entity, identifying in what capacity and under what authority such person is representing the entity;
- (b) The name, address, email and telephone number, including cellular, of the Applicant's employees or agents(s) who will be present and in charge during the entire Special Event including setup and breakdown, and including the specific day and times such employee(s) or agent(s) will be present;
- (c) A description of activities planned during the Special Event;
- (d) The number of attendees (including peak attendance and peak time for attendance) expected to attend the Special Event, including participants and spectators;
- (e) The location, requested date(s) and time of the Special Event;
- (f) If food or beverages will be served or sold, copies of any licenses or permits issued by the appropriate agencies for such vendors, or if pending agency approval, applications for such licenses or permits;
- (g) A proposed Event Operating Plan in accordance to the location, type, and size of the Event.

Sec. 5-506. Noise Regulations.

Special Events must comply with the following noise regulations:

Location	Amplification Devices may be used:	Maximum Noise Levels measured at:	
		Sound booth/control center	Adjacent residential property line
Non-City Destination Venue	Sunday - Thursday: 7:00 a.m. to 9:00 p.m.	N/A	85 dB(C)
	Friday - Saturday: 7:00 a.m. to 10:00 p.m.		
Smart Financial Centre	N/A	N/A	85 dB(C)
Festival Site	Sunday- Thursday: 7 a.m. to 11 p.m.	110 dB(C)	85 dB(C)
	Friday – Saturday: 7 a.m. to 11:59 p.m.		
Plaza Adjacent to Smart Financial Centre	Sunday- Thursday: 7 a.m. to 10 p.m.	N/A	85 dB(C)
	Friday – Saturday: 7 a.m. to 11:00 p.m.		
Constellation Field	<u>Baseball games:</u> Sunday- Thursday: 7 a.m. to 10 p.m. Friday – Saturday: 7 a.m. to 11 p.m. Extension of 30 minutes for an ongoing baseball game Fireworks may not extend past 10:30 p.m.	102 dB(C)	85 dB(C)
	<u>Non-baseball games/Special Events:</u> Sunday- Thursday: 7 a.m. to 10 p.m. Friday – Saturday: 7 a.m. to 11 p.m.		
	<u>Special Events held on off-site parking lot or exterior areas of the Stadium (including Adjacent Parking):</u> Monday - Sunday: 8 a.m. to 10 p.m.		

Sec. 5-507. Permit additional requirements.

- (a) For Special Events that include a Street Event, written consent from representatives of at least 50% of the occupied lots that abut the portion of the Street to be closed;
- (b) Copies of applications for all required permits and authorizations from governmental entities, including the City;
- (c) A copy of any certificate of insurance that may be required which complies with the requirements set forth in this article; and
- (d) Any other information which the Administrator finds reasonably necessary to make a determination as to whether a permit meets the requirements of this article.

Sec. 5-508. City Services Fee and cost recovery.

- (a) *Fee.* When a Special Event is foreseen to involve the City's direct costs for providing city services in excess of \$500, a City Services Fee is required. The amount of the fee will be based upon the estimated costs the City will incur arising out of its services attributable to the Special Event in accordance with this article and with the City's policies. Such costs will be based upon needs directly associated with the Special Event, and not on the basis of possible disruption, reaction or activities of others. City Services Fees must be paid to the City no later than 10 business days prior to the date of the Event.
- (b) *Accounting.* At the conclusion of the Special Event if the actual cost for providing services is less than the amount paid, the City will refund the difference to the permit holder within 30 days of the conclusion of the Special Event. Should the actual cost exceed the amount of the City Services Fee paid, the difference will become due and payable to the City upon the permit holder's receipt of the bill.
- (c) *Cost recovery.* When a City Services Fee was not originally required, or when an unpermitted event resulted in the utilization of City Services, , the City will bill the permit holder or violator for all City Services that were required to be provided as a result of the event. Such payment will be due and payable to the City within 30 days of the date the City Services were rendered.

Sec. 5-509. Insurance and indemnification requirements.

- (a) *Insurance.* When a Special Event is partially or fully contained on the City rights-of-way or property, the applicant must furnish the City with a certificate of insurance complying with standards established by the City's Risk Manager. At minimum, insurance must include property, bodily injury, and municipal liability coverage. The City must be named as an additional insured on the insurance declaration. The City retains the right to lower, waive, or increase the public

liability insurance limits based upon the type of event, equipment, machinery, location, number of people involved and other pertinent factors or risks associated with the event. An applicant has the right to show cause why the insurance requirement should be reduced or waived, and to present such request in writing to the Administrator. Upon receipt of the request, the Administrator and Risk Manager will review the request and respond to the applicant within ten business days from the date the request was received. If a mutually agreeable insurance limit cannot be agreed upon, the application will be considered denied.

- (b) *Indemnification.* The Applicant and any other persons on whose behalf the application is made must agree in writing that they will, indemnify and hold the City and its employees, vendors and contractors, harmless against liability for any and all claims, judgments and associated legal expenses and costs and for claims and litigation arising out of the special event including, but not limited to, those for damage to property or injury to or death of persons. The agreement shall be in a form approved by the City attorney.

Sec. 5-510. Action on application for permit.

- (a) *Permit decision.* The Administrator will make a decision on the Permit application as promptly as possible after the applicant has provided all the information required by the application in the form and manner required, but in no case later than 15 business days after the complete Permit application is submitted.
- (b) *Permit Denial.* The Administrator reserves the right to deny the issuance of a permit if one or more of the following exists:
 - (1) The application submitted is not sufficient or complete, provides false information, does not comply with this article or a rule adopted hereunder, or was not submitted with the required documents, fees or deposits.
 - (2) The Special Event will substantially interfere with an event at a City owned venue that was previously planned and scheduled, or substantially interfere with another Special Event, park event, or other 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.
 - (3) The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, medical care or other arrangements to ensure that the Special Event will be safe, secure and healthful for the participants thereof.
 - (4) The Special Event will not comply with this article, rules adopted hereunder, rules contained elsewhere in the City's Codes, state or federal laws or regulations, or a reasonable condition imposed by the Administrator for issuance of a permit.

(5) The Applicant has held a prior Special Event for which the Applicant failed to comply with a requirement of this article, failed to pay any required fees, charges or deposits, failed to comply with all the conditions of the permit, failed to pay for or remedy damage incurred to public property, created a dangerous condition or situation, failed to comply with reasonable requests of the Administrator, or otherwise violated the intent of this article.

(6) The proposed use would present an unreasonable danger to the health or safety of the Applicant or Special Event attendees.

(7) The Special Event will have an unmitigatable adverse impact upon residential or business access and traffic circulation in the area in which it is to be conducted; or will have an unmitigatable adverse impact upon the remaining portions of the City and community including unsafe conditions for the general public as to the provision of proper fire, EMS and police services in and around the Special Event and the City as a whole.

(8) The proposed use or activity is incompatible with the location requested.

(9) The Applicant fails to receive approval of the required Event Operating Plan.

(10) The City does not have adequate resources to support the Special Event.

(11) The permit was issued in error or in conflict with law.

- (c) *Conditions.* The City may impose reasonable conditions on a Special Event Permit and proposed Event Operating Plan issued to ensure compliance with City rules, regulations, and this article. The permit issued will contain in writing all the conditions and requirements that apply to the permit.
- (d) *Notice of denial of permit.* If the Administrator refuses to issue a permit for a Special Event the Administrator will give written notice of the denial to the applicant as soon as is reasonably possible after the decision is made to deny the permit. The notice will specify the reasons for the denial and what steps must be taken, if applicable, to receive a permit.
- (e) *Appeals from denial.* An applicant may appeal a permit denial by filing a written appeal with the City. The City manager or designee will review the appeal within 5 business days after its filing to determine whether the denial meets the standards imposed by this article. The appeal provisions in this section govern over any other conflicting provisions in this Code.

Sec. 5-511. Modified Application or Expedited Review of Permit.

Upon request by the Applicant, the City 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.

Sec. 5-512. Termination of Special Event.

The Administrator may require a Special Event to be immediately shut down if conditions at the Special Event exist that are perceived by the Administrator to pose a significant threat of harm or damage to the facilities, event staff, volunteers or attendees or if the Applicant is not in compliance with all conditions of the Special Events Permit.

Sec. 5-513. Offenses.

It is unlawful for any person to:

- (a) Knowingly conduct a Special Event without first receiving a permit from the City;
- (b) Knowingly barricade, obstruct, or make use of a public street for a Special Event without first receiving a permit from the City;
- (c) Fail to comply with a condition or requirement of a permit issued under this article.

Section 2. That Chapter 4, Article III (Street Events) is deleted.

Section 3. That Chapter 5, Section 5-1 (Definitions) is amended by deleting the definition of “Special Use” and by deleting the phrase “A special use does not include persons gathered at a park to participate in or observe an athletic event held at the facility designed for that purpose.”

Section 4. That Chapter 5, section 5-2 (Directory Authority) is amended by deleting subparagraph (a) (3) and renumbering subparagraphs (a)(4) and (a)(5) accordingly.

Section 5. That Chapter 5, section 5-4 (Prohibited Activities) is amended by revising subparagraphs (2), (3) and (9) by changing “special use permit” to “special events permit” to read as follows:

...

(2) Interfere with an activity operating under a special events permit;

(3) Camp or sleep in a park overnight; except as authorized by a special events permit;

...

(9) Consume or possess an alcoholic beverage in an open container. There is a rebuttable presumption that a person in possession of an alcoholic beverage in an open container intends to consume the beverage. It is a defense to prosecution under this section that the person consumed or possessed the alcoholic beverage in an open container at a time and place allowing the sale or consumption of alcoholic beverages under a special events permit.

Section 6. That Chapter 5, section 5-6 is deleted.

Section 7. That Chapter 2, article V, Division 4, section 2-136 (Fees for various city services) is amended by revising the title of subparagraph (7)k to read as follows:

k. Fees associated with Special Events permitted under chapter 5

Section 8. That Chapter 2, article V, Division 4, section 2-136 (Fees for various city services) is amended by revising the title of subparagraph l, to read as follows:

l. Festival Site fees

Section 9. That Chapter 2, article V, Division 4, section 2-136 (Fees for various city services) is amended by revising the sentence located directly under the table in subparagraph (7)l.1. to read as follows:

*After 15k attendance the deposit rate is \$1 per person per event. For multiple day events, the deposit rate is based on the per person attendance for the day with the highest projected attendance.

Section 10. That Chapter 2, article V, Division 4, section 2-136 (Fees for various city services) is amended by renumbering subparagraph (7)l.3 as a new subparagraph m., to read as follows:

m. Cost Recovery for City Services


Cost will be billed based on actual costs to the City, including but not limited to Payroll and Overtime.

Section 11. That any person found guilty of violating this ordinance will be fined not less than \$200.00 and no more than \$500.00 for each offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Section 12. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

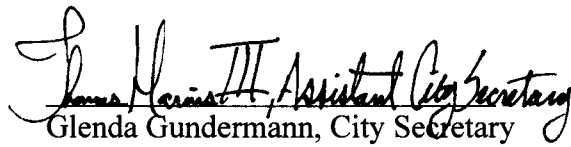
APPROVED on first consideration on December 6, 2016.

ADOPTED on second consideration on December 20, 2016.



Joe R. Zimmermann, Mayor

ATTEST:



Glenda Gundermann, City Secretary

APPROVED AS TO FORM:





CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	12-20-16	AGENDA REQUEST NO:	III-A
INITIATED BY:	TERRELL SMITH <i>T.S.</i> MANAGEMENT ASSISTANT	RESPONSIBLE DEPARTMENT:	ECONOMIC DEVELOPMENT
PRESENTED BY:	TERESA PREZA <i>TP</i> TOURISM AND DESTINATION SERVICES ADMINISTRATOR	DIRECTOR:	N/A
		ADDITIONAL APPROVAL:	PHIL WAGNER, ASSISTANT DIRECTOR OF ECONOMIC DEVELOPMENT <i>PW</i>
SUBJECT / PROCEEDING:	SPECIAL EVENTS ORDINANCE SECOND READING OF ORDINANCE NO. 2065		
EXHIBITS:	ORDINANCE NO. 2065		
CLEARANCES		APPROVAL	
LEGAL:	MEREDITH RIEDE, <i>MR</i> CITY ATTORNEY	EXECUTIVE DIRECTOR:	JENNIFER MAY <i>jm</i>
PURCHASING:	N/A	ASSISTANT CITY MANAGER:	N/A
BUDGET:	N/A	ASSISTANT CITY MANAGER:	N/A
		CITY MANAGER:	ALLEN BOGARD <i>Allen Bogard</i>
BUDGET			
EXPENDITURE REQUIRED: \$		N/A	
CURRENT BUDGET: \$		N/A	
ADDITIONAL FUNDING: \$		N/A	
RECOMMENDED ACTION			
Consider and approve Ordinance No. 2065, establishing citywide requirements for seeking a special events permit within the City of Sugar Land.			

EXECUTIVE SUMMARY

The City recognizes that special events help define the City's image, build community, drive economic activity and enhance the overall quality of life. A Special Events Ordinance has been proposed that will allow the City to maintain superior service delivery and ensure effective communication between departments and potential event producers prior to, during, and after a special event takes place. The provisions established within this proposed ordinance, Ordinance No. 2065 are meant to protect, preserve and promote the safety and welfare of the general public.

The City Council held a workshop on the proposed Special Events Ordinance on November 15. As part of that discussion, staff provided detail on all of the key elements of the Ordinance, including the permitting process, cost recovery for city services rendered, provisions related to City Destination Venues, exception criteria, and penalties. Below is a summary highlighting key provisions of the Ordinance:

- **Ordinance Purpose:** Overall the purpose of the Ordinance is to protect, preserve & promote safety and welfare of general public; ensure our costs are recovered from event producers; identify roles and responsibilities between the producer & City; determine when a special event permit is required; allow for exceptions; and list the minimum application requirements.
- **Key Definitions** include Special Events – a unique activity having an impact to public property; City Destination Venue – property owned, leased, or under control of the City; City Service Fee – funds the producer is to pay for City provided services; and Event Operating Plan – serving as the “master plan” developed by the producer indicating various elements like event layout, security and safety plan, amongst other elements.
- **Director Authority:** The proposed Ordinance also grants authority to the governing department to activate policies, rules, regulations to govern the decision making process and criteria for how safety conditions will be decided.
- **Exemptions:** The Ordinance does allow exemptions for City produced events, events conducted by an Independent School District and located at an ISD facility or on ISD property, events at Sugar Land Town Square, and street festivals with less than 100 participants.
- **Permit Required:** The Ordinance identifies that a special event permit is needed when an event is held on City property or disrupts normal use of City property or requires the use of any City Services that would not be necessary in the absence of the special event. Additionally, the Ordinance allows for a single permit to be obtained for recurring events, if the recurring event has similar implications like location, attendance projection, security and traffic need, etc.
- **Permit Application:** To obtain a permit the ordinance outlines what should be included in the onset of the request, starting with the submission of an application at least 45 days in advance, a proposed Event Operation Plan that outlines how an event will be produced, and the need for copies of additional permit applications (ex: TACB alcohol permit, state fireworks, etc.).
- **Noise Regulations:** As outlined in the Ordinance, the permit applicant must also adhere to noise levels and hours of noise amplification stipulating that at no time within the allowable amplification period should noise be greater than 85 dB(C) at adjacent residential property line, with the following limits on hours of amplification for certain City Destination Venues:
 - *Festival Site: 7:00AM to 11:00PM (Sun-Thu) and 7AM to 11:59PM (Fri-Sat)*

- *Plaza Adjacent to Smart Financial Centre: 7:00AM to 10:00PM (Sun-Thu) and 7AM to 11:09PM (Fri-Sat)*
- *Constellation Field - Stadium: 7:00AM to 10:00PM (Sun-Thu) and 7:00AM to 11:00PM (Fri-Sat), with the exception of – in the case of both weeknights and weekends – a 30 minute extension for ongoing baseball games and the prohibition of fireworks after 10:30PM*
- *Constellation Field – Parking Lots: 8:00AM to 10:00PM (Mon-Sun)*
- **City Services Fee and Cost Recovery:** One of the key features of the Ordinance is the ability to recover the costs associated with the activation of City Services for both permitted and unpermitted events.
- **Action on Application for Permit:** Per the Ordinance, the City will make a decision on the Permit application as promptly as possible and reserves the right to deny the issuance of a permit if certain conditions are found.
- **Other Ordinance Provisions** include insurance requirements, a modified/expedited application review for efficiency and protection of rights, a stipulation regarding fines ranging from \$200 to \$500 per offence, the ability to terminate or “shut down” an event for the sake of public safety, amongst other provisions.

Staff plans to communicate the activation of the Ordinance by publishing it or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage; writing an article in Sugar Land Today; conducting a presentation at a quarterly HOA meeting; requesting to grandfather events already approved and in process of planning and execution with the exception of events with more than 5,000 attendees; contacting up to two-years-past producers; and requesting a fine grace period of 120 days.

Additionally, this ordinance makes several changes to other sections within the City’s Code of Ordinances, such as deleting the now-duplicate Street Events article, removing now-duplicate special events provisions from the Parks Ordinance and clarifying several items within the Fee Ordinance.

Tonight, staff recommends consideration and approval of the second reading of Ordinance No. 2065, establishing the framework and guidelines for conducting a special event within the City of Sugar Land.