

COUNTY OF HORRY)
)
STATE OF SOUTH CAROLINA)

ORDINANCE NO. 04 -09

AN ORDINANCE TO AMEND CHAPTER 13, ARTICLE III, SECTION 13-34, OF THE HORRY COUNTY CODE SO AS TO PROVIDE FOR A REVISED SYSTEM OF SPECIAL EVENT PERMITTING

WHEREAS, it appears to Horry County Council that County Code provisions relating to special event permitting are inadequate and in need of updating and expansion; and

WHEREAS, it is the will of Horry County Council to provide for a revised system of special event permitting for the benefit of the County, its residents and visitors.

NOW, THEREFORE, by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following hereby is ordained and enacted:

1. Chapter 13, Article III, Section 13-34 of the Horry County Code of Ordinances is hereby repealed, and is rewritten and replaced in its entirety. Section 13-34 shall hereafter read as follows:

Sec. 13-34. Special Event Permits.

(a) Recognizing that special events are a valued part of social life for residents and visitors alike, it is the purpose of Horry County Council to establish a structured process for the permitting of outdoor special events conducted by the private sector that use public streets, facilities or services, or occupy, impact or consume public resources as a result of the congregation of people and activities held. This Section is intended to insure that the County and its residents and visitors will have adequate advance notice of a proposed special event and the cooperation of its promoters, sponsors, organizers, and enablers in order properly to plan for County services, such as public safety, sanitation and traffic control.

(b) Horry County Council finds that it must balance the peaceful enjoyment of one's residence and the public's health, safety, and welfare in relationship to the rights and interests of commercial activities that sustain and promote our local economy. By regulating special events' frequency, duration, intensity, time, place and manner, the County intends to strike this balance, and provide a predictable and coordinated process for applicants seeking to conduct a special event, and abate the cost thereof. The costs to be recouped include, but are not limited to: personnel, equipment and supplies, sanitation, utilities, public facility maintenance and restoration, and monitoring.

(c) It is the intent of County Council to protect the rights of its citizens and guests to engage in protected free speech and expressive activities and yet provide for the least

restrictive and reasonable, time, place and manner regulation of those activities within the overall context of rationally regulating commercial special events that have an impact upon public facilities and services, and other residents and guests. Nothing in this Section shall be construed to prevent members of the public from assembling in public places for the purpose of making any speech or conveying any message to the public or to the government without holding a permit pursuant to this Section. Should any such persons wish to assemble for such purpose and should they not be holding a permit under this Section, they shall not be prevented from doing so, provided that they have complied with all other ordinances and law, if there be any, regulating such event or gathering, and provided they are peaceable and not in violation of any laws concerning public order.

(d) "Special event" means an outside or outdoor event, and can include:

1. Any organized formation, parade, procession or assembly consisting of persons, and which may include animals, vehicles or any combination thereof, which is to assemble or travel in unison on any street which does not comply with normal or usual traffic regulations or controls;
2. Outdoor musical concerts, festivals, fairs, carnivals, or rallies which may be expected to have five hundred (500) or more people in attendance at any one time;
3. Sporting events which require the use of temporary structures, including grandstands and tents, and which may be expected to have four thousand (4,000) or more people at any one time;
4. Other outdoor public assemblies involving the gathering together of persons for commercial, civic or social functions or recreation or for food or drink consumption, which may be expected to have five hundred (500) or more people at any one time.
5. Examples of special events include filming, concerts, parades, circuses, fairs, festivals, rallies, block parties, community events, mass participation, sporting competition such as marathons and running events, bicycle races or tours, or spectator sports such as football, basketball and baseball games, golf tournaments or hydroplane or boat races. Excluded are County sponsored events, funeral services and processions, lawful picketing on sidewalks, and demonstrations that do not involve the use of vehicles, animals, fireworks, pyrotechnics or equipment (other than sound equipment)(provided that no fee or donation is charged or required for participation or attendance and the Horry County's Division of Public Safety is notified at least 48 hours in advance of the commencement of the demonstration).

6. NOTE: Certain events and activities, other than those fitting the above definitions of "special event", may also require special event permitting – see paragraphs (m) through (p), below.

(e) Except as provided in this Section, no person may conduct, promote, sponsor, organize, or enable a special event as defined in paragraph (d), above, without having first obtained a Special Event Permit from the County.

(f) Any applicant who desires to conduct, promote, sponsor, organize, or enable a special event is encouraged to submit a complete application for a Special Event Permit, to include without limitation a site plan depicting existing facilities and proposed temporary facilities, a description of all activities which will be conducted, dates, times, and location(s) for the proposed special event, and a description of measures to be taken to ensure the safety, health, and welfare of event goers as well as those in the surrounding community, as soon as possible prior to the scheduled start of the event but shall submit such application no more than one (1) year, and no less than forty-five (45) days, prior to the scheduled start of the event.

(g) Applicants for a Special Event Permit are required to acknowledge the responsibilities of hosting said event as it pertains to safety and security of staff members and prospective attendees. Depending upon the nature of the event, Horry County's Division of Public Safety ("Division of Public Safety" or "Public Safety") may require endorsement by the appropriate County department which has a professional knowledge of potential issues that may be predicted for each specific event under consideration. The criteria to be evaluated in assessing the granting or denial of the issuance of such permits and, if granted, any special conditions for the granting thereof, will be promulgated by the County Administrator or his designee. The processing of such permits will be accomplished by the Division of Public Safety. General areas of consideration and regulation will include without limitation: Security and Safety, Traffic Circulation and Parking, Waste Disposal, Temporary Structures, Lighting, Medical, Location, Activities, Hours of Operation, History, and Proximity to Residences, Churches, Schools and Other Special Events. Insurance and/or the posting of a bond may be required as a condition of permitting.

(h) The Division of Public Safety will review the application for a Special Event Permit for completeness and notify the applicant of any incomplete items within ten (10) days of the receipt of the application. Public Safety will approve, approve with modifications or conditions, or deny the application within ten (10) days of receipt of a complete application. Public Safety may deny or revoke the issuance of a Special Event Permit when, among other things, the application contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact, does not comply with all other applicable County ordinances, when the event for which a permit is sought is unlawful or constitutes a public nuisance, or when the applicant has not provided an adequate traffic plan or traffic controls, an adequate parking plan, sufficient security, appropriate crowd control, health, safety, or sanitation measures.

(i) Any person aggrieved by denial of the issuance, or conditional issuance, of a Special Event Permit by the Division of Public Safety may appeal the decision to the County Administrator by written request stating the reasons thereof within ten (10) days after the notice of denial or conditional issuance is received.

(j) A Special Event Permit shall be valid for the duration of the function, but in no case shall the permit be valid for more than seven (7) consecutive days, to include any set-up and take-down required.

(k) The required permit must be displayed at the site in a conspicuous location for the duration of the function.

(l) A permit application must be accompanied by the payment of a non-refundable two hundred fifty (\$250.00) dollars administration fee. In addition, upon approval of the application, a fee of one hundred (\$100.00) dollars per day for each day of the permitted special event is due and payable not less than ten (10) days prior to the first day scheduled for the special event. These fee requirements may be waived for events which occur solely for the benefit of and are solely sponsored and operated by, or in which the entire proceeds accrue to, a governmental entity or nonprofit organization or entity. If due to inclement weather or other act of nature the entire event is cancelled, the permit holder will not be required to re-pay these fees so long as the content and scope of the event remains the same, and the event is rescheduled with the approval of the Division of Public Safety.

(m) Horry County Council finds that certain events occurring in the County have grown to such a level, and have involved such activities, that they have exceeded public acceptance of them in current form due to the noise, litter, congestion, and inadequate levels of safety and security generated as a result of these events, and the inordinate amount of public expenditure of resources necessary to control and police them. These activities are viewed by a significant segment of the public as offensive and a public nuisance, and damaging to the quality of life for the residents who live, work, and attend school in the County, unreasonably interfering with their rights and with the health, safety, peace, comfort, or convenience of the general public.

(n) County Council finds it necessary to restrict certain activities heretofore permissible at such events, and to provide specially for the abatement of unpermitted event activities, offensive to public order, detrimental to property values and community appearance, harmful to the enjoyment of adjacent property, hazardous or injurious to health, safety, peace, or welfare, and/or that require extraordinary expenditure of public resources.

(o) The following are hereby declared to be nuisances negatively affecting public health, safety, peace, comfort, welfare, or convenience:

1. The congregation of large numbers of persons and vehicles resulting from a promotion, direction, advertisement or solicitation for individuals to attend unpermitted events by persons or groups identifying or claiming

Horry County or any portion thereof as the gathering or focal location, when such results in vehicles and participants congregating in such numbers and at such a length of time that it works to the detriment of the public health, safety and welfare of the citizens, or requires a heightened law enforcement response or intensity of law enforcement response, or a heightened expenditure of public resources. Factors relevant to this determination include without limitation numbers in attendance, location, noise, litter, congestion, and alcohol consumption.

2. Any unpermitted activity or event at any location, where violations of State statute or County Code, breaches of the peace, or disorderly conduct occur or are alleged legitimately to have occurred with such disproportionate frequency or intensity that they require an excessive public safety response cost. "Excessive public safety response" means the deployment or dispatch of five or more law enforcement officers to the location at any one time, or the need for public safety personnel or emergency vehicles, or code enforcement or public works equipment or personnel, due to an observation or report of public disturbances, or public health/safety or code/statutory violations, at the location, in an amount greater than when compared to the frequency or intensity of law or regulation enforcement required at other similarly situated locations.

3. Any unpermitted activity or event, for which a property owner or business license holder permits, enables or allows drinking contests or games, or contests involving disrobing, or "wet t-shirt", "Girls Gone Wild"™, slaw/pudding/jello wrestling, bobbing, or similar contests, or motorcycle/car washes (excluding those held by church, school, or civic organizations) on such property or at such business, and which are visible to the public at large.

4. Any unpermitted activity or event for which a property owner or business license holder permits, enables, or allows outdoor stunt shows, dynodrag or burn-out pit activities, "burn-outs", "burning rubber", "laying down rubber", "peeling rubber", and/or the racing or revving of engines, on such property or at such business.

(p) No property or business owner, or any other person or legal entity in possession of or having control over real property shall enable, promote, contribute to, advertise for, stage, conduct, organize, sponsor, or allow an event or activity at such business or on such property that results in a public nuisance as defined in sub-section (o), above, and/or is reasonably foreseeable to negatively affect County residents' health, safety or welfare, and/or requires excessive public safety cost, unless an application for a Special Event Permit has been submitted and approved, based on a complete management plan that protects public safety, health and welfare, and addresses cost recovery for public expenditures arising from implementation of the plan. A property or business owner, or other person or legal entity in possession of or having control over real property, who,

without an approved Special Event Permit permits, enables, promotes, contributes to, advertises for, stages, conducts, organizes, sponsors, or allows such an event or activity, or a "special event" as defined in paragraph (d), above, at such business or property shall be subject to the penalty provisions set forth in Section 1-8 of this Code, and shall be responsible, jointly and severally, for the heightened costs of public resources and public safety response costs arising from the event or activity. In addition, the holder of a business license who enables, promotes, contributes to, advertises for, stages, conducts, organizes, sponsors, or allows such unpermitted special events or activities on the business premises may be subject to business license suspension and/or revocation.

(q) In addition to revocation of the permit, a violation of any of the terms and conditions of any permit issued under this Section will subject (1) the holder of a Special Event Permit issued pursuant to this Section, and (2) any property or business owner, or other person or legal entity in possession of or having control over real property, who enabled, promoted, contributed to, advertised for, staged, conducted, organized, sponsored, or allowed the event at such property or business, jointly and severally, to the penalty provisions set forth in Section 1-8 of this Code, as well as the heightened costs of public resources occasioned by the event, and/or business license suspension and/or revocation.

(r) Public safety response costs include without limitation the salaries or wages of County personnel involved, event traffic control, fire safety or other event support, and the use of County equipment and other non-personnel expense.

(s) For purposes of this Section, excessive public safety response costs do not include protection of the attendees of a free speech event from hostile members of the public or counter-demonstrations. Nothing in this Section shall be construed to prevent members of the public from assembling on parks or streets for the purpose of making any speech or conveying any message to the public or to the government without holding a Special Event Permit pursuant to this Section.

2. SEVERABILITY. If any Section, Subsection, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

3. CONFLICT WITH PRECEDING ORDINANCES. If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, unless expressly so providing, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

4. EFFECTIVE DATE. This Ordinance shall become effective on Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED.

Dated this 17th day of February, 2009

HORRY COUNTY COUNCIL


Liz Gilland, Chairman

Harold G. Worley, District 1

Brent J. Schulz, District 2

Marion D. Foxworth, III, District 3

Gary Loftus, District 4

Howard D. Barnard, III, District 5

Robert P. Grabowski, District 6

James R. Frazier, District 7


Carl H. Schwartzkopf, District 8

W. Paul Prince, District 9

Jody Prince, District 10

Al Allen, District 11

Attest:


Patricia S. Hartley, Clerk to Council

Date of First Reading: January 20, 2009
Date of Second Reading: February 3, 2009
Date of Third Reading: February 17, 2009