

ORDINANCE NO. 98- 17

AN ORDINANCE AMENDING ORDINANCE NO. 75-37, REGULATING OUTDOOR FESTIVALS; DEFINING FESTIVAL; REQUIRING A FESTIVAL PERMIT; PROVIDING FOR: METHOD OF APPLICATION, ISSUANCE OF A PERMIT, CONDUCT OF FESTIVALS REGULATED, SUSPENSION AND REVOCATION OF PERMITS, PENALTIES, EXEMPTION AND APPEALS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the County finds that outdoor ~~musical entertainment~~ festivals, offered to the general public or a substantial segment thereof, often attracts a large gathering of people which, if uncontrolled, may cause adverse health and safety conditions requiring County regulation to insure adequate sanitation and sewage disposal facilities, medical facilities, parking, traffic control and crowd control, and other regulations in the interest of public safety and public health.

NOW, THEREFORE, BE IT ORDAINED this 13th day of July, 1998, by the Board of County Commissioners of Nassau County, Florida, that Ordinance No. 75-37 be amended as follows:

SECTION 1. FESTIVAL DEFINED. As used in this Ordinance, festival ~~means~~ shall include but not be limited to any gathering of persons for the primary purpose of listening to or participating in outdoor musical entertainment activities offered to the general public or a substantial segment thereof musical entertainment, fairs, art shows, displays or any gathering where musical entertainment is offered to the general public. The definition of "festival" utilized herein is not dependent on whether or not a fee is collected or charged for attendance. The term "festival" shall not include a gathering for another primary purpose, such as, but not limited to, athletic events, religious events, rodeo events, ~~fairs, or expositions, even though outdoor musical entertainment may be incidental thereto,~~ or any entertainment

whatsoever ~~as approved by~~ conducted at the Nassau County Fair Association grounds.

SECTION 2. FESTIVAL PERMIT REQUIRED. No person shall stage, promote, or conduct any festival in the County without first obtaining a festival permit from the County ~~Health Officer~~ Coordinator.

SECTION 3. PERMIT APPLICATION. An applicant for a festival permit shall submit the following to the County ~~Health Officer~~ Coordinator at least ~~thirty (30)~~ sixty (60) days prior to the date of commencement of the festival- and shall include:

(a) Sanitation Facilities. A plan for adequate sanitation facilities, sewage disposal and garbage collection and disposal, to be approved by the ~~Public Health Officer~~ County Health Department.

(b) Food. Approved by the appropriate agency regarding the sale or supply of food products.

~~(b)~~ (c) Medical Facilities. A plan for adequate medical facilities, ~~to be~~ personnel and supplies and said plan approved by the ~~Public Health Officer~~ County Public Health Department.

~~(e)~~ (d) Parking Facilities. A plan for adequate parking facilities designed to avoid material disruption of traffic flow and to avoid interference with private property in the area, to be approved by the Sheriff and Director of Public Works.

~~(d)~~ (e) Security and Crowd Control. A plan for adequate security and crowd control in and around the festival area, ~~to be~~ approved by the Sheriff, which plan shall include as a minimum at least the following:

1. One certified police law enforcement officer ~~or security officer~~ for each ~~two~~ one hundred fifty persons attending the festival;

2. If any portion of the festival will be held during hours of darkness, a plan for adequate lighting; ~~and~~

~~3. If the festival site contains any body of water of a size which will accommodate swimming, a plan for adequate lifeguard facilities, including at least one lifeguard on duty during daylight hours;~~

~~(e)~~ (f) Personal Data. An affidavit setting forth the names, addresses, and relevant background, qualifications, and experience of all persons promoting, operating, and participating directly or indirectly in the financial backing of the festival ~~and of all performers at the festivals;~~

~~(f)~~ (g) Time and Location and Dates and Attendance. The location, dates and time of the festival, and conclusion of time of the festival, and the estimated attendance;

(h) Zoning Classification and Owner's Consent. The zoning classification of the property to be utilized and the exact ownership of the property, including the owner's written consent.

~~(g)~~ (i) Liability Insurance. A public liability insurance policy, together with adequate evidence that premiums are paid, issued by an insurance company licensed to do business in Florida, ~~and having a policyholder's rating of "B" or better and a financial rating of "AA+" or better by Alfred M. Best Company,~~ the policy to include coverage in the following amounts:

1. Bodily injury liability insurance of ~~five hundred thousand~~ not less than one million dollars for ~~one person injured~~ personal injuries and, subject to that limit, one million dollars for ~~more than one person injured in any one occurrence;~~ property damage against any and all claims and

demands made by any person in connection with the staging, promoting, conducting of or attendance at the festival;

2. ~~Property damage liability insurance of five hundred thousand dollars in any one occurrence;~~
3. ~~Automobile liability insurance for bodily injury of two hundred fifty thousand dollars for any one person injured and subject to that limit, five hundred thousand dollars for more than one person injured in any one occurrence;~~
4. ~~Property damage liability insurance covering all owned, leased, and all other classes of non-owned vehicles in the amount of fifty thousand dollars for any one occurrence. The policy shall provide coverage for the protection of the promoter of the festival, the owner of the festival area and the County of Nassau from any legal liability arising out of bodily injury, including death, and property damage as described above, to any member of the general public. The owner and the County of Nassau shall be named as co-insureds in the policy and the policy shall include an endorsement to the effect that it cannot be cancelled without written notice thereof being served on the County Health Officer at least fifteen days prior to the date of cancellation.~~

(j) Notification of Surrounding Property Owners. A written certificate of notification of all surrounding property owners within one thousand (1,000) feet of the location of the festival area. The certificate shall include the names and addresses of the property owners within one thousand (1,000) feet.

~~(h)~~ (k) Indemnity Agreement. An agreement pursuant to which the applicant assumes full responsibility and liability for and indemnifies

and saves the County harmless against (1) all liability, claims for damages, and suits for or by reason of any injury to any person, and damage to any property for every cause in any way connected with the holding of the festival irrespective of negligence actual or claimed, upon the part of the County, its agents and employees, except willful and wanton acts of county employees and agents, and (2) all expenses incurred by the County for police protection in excess of normal police operations to the extent necessary to preserve public order and safety at the festival. ~~The applicant shall agree to indemnify the County against all charges, expenses and costs including the reasonable value of the services of the County Attorney incurred on account of or by reason of any such injuries, damages, liability, claims, suits or losses and all damages growing out of the same.~~

(1) Cash Clean-Up Bond. Any person receiving a permit shall within twenty-four hours of receipt of the permit deposit with the County Coordinator a cash bond in the amount of \$250.00 per 301 anticipated patrons. The cash bond shall be for the purpose of any expense of cleaning debris, paper, litter or trash left at the festival site. The cash bond shall be returned upon certification by the Maintenance Supervisor that the trash and litter has been removed within twenty-four (24) hours of the closure of the festival.

~~(i) Bond or Cash Deposit. Deliver to the County within twenty days after application is filed:~~

- ~~1. A faithful performance bond in the penal sum of \$50,000.00, conditioned that the applicant shall well and faithfully observe, fulfill and perform according to the plans approved and the requirements of this Ordinance and that in the event of any failure to do so on the part of the applicant, the amount thereof shall be recoverable by the~~

~~County for all damages proximately resulting from the failure of the applicant to well and faithfully perform according to the conditions of the bond, or~~

~~2. A County deposit of Fifty Thousand Dollars conditioned in the same manner as a performance bond under Paragraph 1 above.~~

~~(j)-(m)~~ Other Information. Such other information as the County ~~Health Officer~~ Coordinator may reasonably require to ensure compliance with this Ordinance.

SECTION 4. ISSUANCE OF PERMIT. Upon submission of the items required by the preceding section, ~~the filing of the required approvals by the Public Health Officer and the Sheriff,~~ and the payment of an application fee of ~~fifteen~~ one hundred (\$100.00) dollars for each ~~hour~~ day during which the festival will be conducted, not to exceed eight hours in any twenty-four hour period, the County ~~Health Officer~~ Coordinator ~~shall~~ may issue a permit for the staging, promoting or conducting of a festival at the time and location named in the application, ~~except that the County Health officer shall deny the permit if:~~ The permit will not be considered for approval if:

(a) Prior Conviction. The applicant, any of the persons participating directly or indirectly in the financial backing of the festival, or any of the performers at the festival have been convicted within the last three years preceding the date of the application of a violation of:

1. This Ordinance;
2. An ordinance or law of another governmental body regulating festivals and similar activities; or

3. An ordinance or law of the County or any other governmental body unit including the State of Florida regulating or prohibiting drugs or narcotics; or

~~4. Any other conviction of a misdemeanor or felony under the laws of Florida.~~

4. Failure to provide complete information as required.

5. The applicant shall provide an affidavit that he or she has not been convicted of any crime set forth in paragraph 3 or any other violation as set forth in paragraphs 1 or 2.

~~(b) Prior Failure to Appear at three or more separate musical engagements within the year preceding the date of the application, without a lawful contractual defense; or~~

~~(c) False Application. The applicant has made any false representation in the application.~~

The County ~~Health Officer~~ Coordinator shall grant or deny the permit within twenty days following the filing of an application.

SECTION 5. CONDUCT OF FESTIVALS REGULATED.

(a) Time Limit; Advertising. No person staging, promoting, or conducting a festival shall:

1. Permit the festival to continue for more than eight hours in any twenty-four hour period, under no circumstances however, shall the festival be conducted within the hours of ~~2:00 a.m.~~ 10:00 p.m. to 8:00 a.m. within the permitted period, ~~or advertise or permit any advertising that the festival will so continue; or.~~ No festival shall exceed two calendar days.

2. Advertise or permit any advertising that a particular performer will appear at a festival until after a contract for the performer's appearance has been executed and a copy

thereof has been filed with the County ~~Health Officer~~
Coordinator.

(b) Alcohol, Glass on Premises. On the festival premises, no person shall possess:

1. Any beverage containing alcohol of more than one percent by weight, or
2. Any container made of glass.

~~(c) Required Appearance. Unless excused by impossibility of performance or other lawful contractual defense, every person who has contracted to appear at a festival as an entertainer shall appear at the published time or within one hour thereafter.~~

~~(d)~~ (c) Conduct of Festival; Damages. The festival promoter shall be responsible for the orderly and ~~healthful~~ lawful conduct of the festival and for the avoidance of adverse public health and public safety conditions or incidents, and, upon failure to comply, shall respond to the County for all damages proximately resulting therefrom.

SECTION 6. REVOCATION OR SUSPENSION OF PERMIT. The County ~~Health Officer~~ Coordinator may ~~summarily~~ suspend or revoke a permit issued under this Ordinance for violation of ~~the preceding~~ any section of this Ordinance or for failure to comply with the plans described in Section 3, as approved, or for making any false representation in an application for a permit or for an exemption certificate.

SECTION 7. PENALTIES. It is unlawful and a misdemeanor in the second degree ~~against the county~~ to:

- (a) Conduct, stage or promote a festival without a permit, or
- (b) Fail to comply with the plans described in Section 3, as approved, or
- (c) Violate a provision of Section 5.

SECTION 8. EXEMPTION.

(a) Attendance Affidavit. The preceding Sections 2 through Section 8 inclusive, shall not apply to a festival if:

1. The promoter files an sworn affidavit that ~~his best estimate of probable~~ the attendance at the festival is ~~one thousand~~ three hundred persons or less, and
2. The County ~~Health Officer~~ Coordinator concurs in the estimate in writing and issues to the promoter an exemption certificate.

(b) Basis of Attendance Estimate. Each attendance ~~estimate affidavit~~ by the promoter and ~~by the County Health Officer~~ shall be accompanied by a written statement of the basis for the estimate. Copies of any advertising shall be attached to the sworn affidavit and the location of the advertising shall be included as well as radio advertising information and other media advertising. ~~Each estimate shall be based upon all of the relevant facts known at the time, including, without limitation, past attendance at similar functions having the same and similar performers, both in Nassau County and comparable counties, the price of admission and the extent of advertising and promotion contemplated.~~

(c) Time Limit; Advertising. No person staging, promoting or conducting a festival under an exemption certificate pursuant to this section shall permit the festival to continue for more than eight hours in any twenty-four hour period, under no circumstances, however, shall the festival be conducted within the hours of ~~2:00 a.m.~~ 10:00 p.m. to 8:00 a.m. within the permitted period, or advertise or permit any advertising that a festival will so continue.

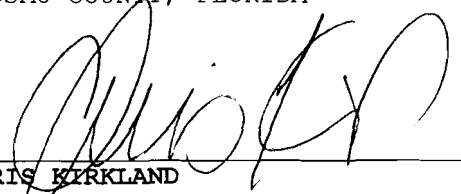
(d) Penalty. It shall be unlawful and a misdemeanor in the second degree ~~against the county~~ to violate this section.

~~(c) Any gathering of one hundred persons or less shall be exempt from all sections of this Ordinance.~~

SECTION 9. APPEAL.

The applicant or permittee may file a written appeal as to the decision of the County Coordinator to deny a permit or revoke a permit. Said written appeal shall be filed within twenty (20) days of the County Coordinator's actions. The Board of County Commissioners will consider the appeal at a regularly scheduled meeting but in any event no later than forty-five (45) days of receipt of the appeal. The Board of County Commissioners shall determine whether the applicant or permittee shall appear and present testimony or evidence at the Board meeting. The written appeal shall state with particularity the reasons for the appeal.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



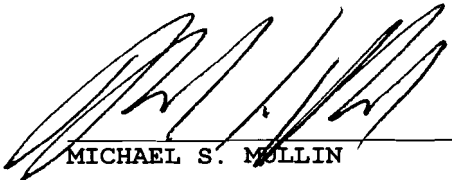
CHRIS KIRKLAND
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney:



MICHAEL S. MOLLIN