

ORDINANCE 2014- 001

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, AMENDING ORDINANCE NO. 75-37, AS AMENDED BY ORDINANCE NO. 98-17, REGULATING OUTDOOR FESTIVALS; SPECIFICALLY AMENDING SECTION 3, PERMIT APPLICATION; SECTION 4, ISSUANCE OF PERMIT; SECTION 5, CONDUCT OF FESTIVALS REGULATED; SECTION 6, REVOCATION OR SUSPENSION OF PERMIT; SECTION 7, PENALTIES; SECTION 8, EXEMPTION; AND SECTION 9, APPEAL; PROVIDING FOR REGULATIONS REGARDING THE SALE AND CONSUMPTION OF ALCOHOL AT SUCH EVENTS, AND PROVIDING FOR FURTHER REGULATION PURSUANT TO THAT CHANGE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Nassau County has established certain rules and standards that regulate events for the primary purpose of musical entertainment, which are referred to as outdoor “festivals”, which regulation is contained in Ordinance 75-37, as amended by Ordinance 98-17; and

WHEREAS, under the current ordinance, alcohol, and the sale of alcohol, would be prohibited at such events; and

WHEREAS, the citizens of Nassau County could benefit from the economic impact of music festivals that permit the sale of alcohol when reasonable restrictions are in place to protect the general safety and welfare of the public; and

WHEREAS, the Board of County Commissioners desires to amend the current rules and regulations governing outdoor festivals to remove the prohibition on alcohol sales and consumption and to provide for further regulation pursuant to that change.

NOW THEREFORE, BE IT ORDAINED this the 13th day of January, 2014, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 98-17 be amended as follows:

Section 1. Festival defined.

As used in this Ordinance, "festival" shall include, but not be limited to, any gathering of persons for the purpose of 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, or any entertainment whatsoever conducted at the Nassau County Fairgrounds.

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 ~~coordinator~~ manager.

Section 3. Permit application.

An applicant for a festival permit shall submit the following to the county ~~coordinator~~ manager at least sixty (60) days prior to the date of commencement of the festival and shall include information concerning the applicant's plan regarding the following:

(a) *Sanitation facilities.* A plan for adequate sanitation facilities, sewage disposal and garbage collection and disposal, to be approved by the county health department.

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

(c) *Medical facilities.* A plan for adequate medical personnel and supplies and said plan approved by the county manager ~~public health department~~.

(d) *Motor vehicle access and parking facilities.* A plan for adequate site access and 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. As a condition precedent to approval, the Sheriff of Nassau County, Florida may require the applicant and festival promoter to implement any additional security and crowd control measures necessary to ensure the general safety and welfare of the public, and to bear the costs and expenses of those measures.

(e) *Security and crowd control.* A plan for adequate security and crowd control in and around the festival area, approved by the Sheriff of Nassau County, Florida. ~~, which plan shall include as a minimum at least the following:~~

(1) The plan for adequate security and crowd control shall include as a minimum at least the following:

(a) One certified law enforcement officer for each one hundred fifty (150) persons attending the festival, for festivals without alcohol consumption; and one certified law enforcement officer for each seventy (70) persons attending the festival, for festivals when the sale and/or consumption of alcohol is permitted; and

(b) if any portion of the festival will be held during hours of darkness, a plan for adequate lighting.

(2) The applicant and festival promoter shall utilize and hire law enforcement officers through the Nassau County Sheriff's Office Secondary Employment Program to satisfy the above requirement for security and crowd control. In the event the Nassau County Sheriff's Office Secondary Employment Program is unable to secure or assign the requisite number of certified law enforcement officers as outlined herein, the Nassau County Sheriff's Office will coordinate with other law enforcement agencies to supplement the number of available certified law enforcement officers. The applicant and festival promoter shall pay, at least 72 hours in advance, all costs and expenses related to the provision of certified law enforcement officers under this section as a condition to approval and issuance of the permit. If the costs and expenses for the provision of certified law enforcement offices are not paid at least 72 hours before the festival, the permit will be revoked by the county manager.

(3) As a condition precedent to approval, the Sheriff of Nassau County, Florida may require the applicant and festival promoter to implement any additional security and crowd control measures necessary to ensure the general safety and welfare of the public, and to bear the costs and expenses of those measures.

(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.

(g) *Time, location and dates.* The location, dates and time of the festival, and time of conclusion of the festival, and the estimated attendance.

(h) *Festival site. Zoning classification and owner's consent.* The applicant must provided the following:

(1) The zoning classification of the property to be utilized, and the exact location of the festival site;

(2) Ownership of the property, including the owner's written consent;

(3) Identify direct access onto a roadway classified by the Nassau County Comprehensive Plan as "major collector" or greater; and

(4) Identify the date of the last festival permitted on the property. No more than one festival may be conducted in any particular location in any six (6) month period unless the festival may operate in said location pursuant to a permitted use or an approved conditional use.

(5) If applicable, certification by the County Growth Management Director that alcohol sales would not be barred by any duly enacted distance restriction regulation.

(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, the policy to include coverage in the following amounts:

(1) Bodily injury liability insurance of not less than one million dollars (\$1,000,000.00) for personal injuries and, subject to that limit, one million dollars (\$1,000,000.00) for 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 so long as no alcohol is permitted at the festival.

(2) For festivals where alcohol will be permitted, the event holder shall have bodily injury liability insurance of not less than two million dollars (\$2,000,000.00) for personal injuries and, subject to that limit, two million dollars (\$2,000,000.00) for 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.

(j) *Notification of surrounding property owners.* A sworn ~~written~~ certificate of that written notification of the proposed festival date and times has been provided to 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.

(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.

(l) *Cash clean-up bond.* Any person receiving a permit shall within twenty-four (24) hours of receipt of the permit deposit with the county ~~coordinator~~ manager a cash bond in the amount of two hundred fifty dollars (\$250.00) per three hundred one (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.

(m) *Other information.* Such other information as the county ~~coordinator~~ manager may reasonably require to ensure compliance with this chapter.

Section 4. Issuance of permit.

Upon submission of the items required by the preceding section, and the payment of an application fee of one hundred dollars (\$100.00) for each day during which the festival will be conducted, not to exceed ~~eight (8)~~ ten (10) hours in any twenty-four hour period, the county ~~coordinator~~ manager may issue a permit for the staging, promoting or conducting of a festival at the time and location named in the application. 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 (3) years preceding the date of the application of a violation of:

- (1) This chapter;
- (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 unit including the State of Florida regulating or prohibiting drugs or narcotics; or
- (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 subsection (3) or any other violation as set forth in subsections (1) or (2).

The county ~~coordinator~~ manager shall grant or deny the permit within twenty (20) 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 (8)~~ ten (10) hours in any twenty-four hour period, under no circumstances however, shall the festival be conducted within the hours of ~~10:00 p.m.~~ 12:00 a.m. to 8:00 a.m., within the permitted period. No festival shall exceed two (2) calendar days. For festivals permitting the sale of alcohol, alcohol sales shall end no later than one hour prior to the scheduled ending time of the last musical entertainer, but in no event shall alcohol sales continue past 11:00 P.M.

(2) Advertise or permit any advertising that a particular performer will appear at a festival until after ~~a contract for~~ confirmation by the performer, or his/her agent, of the performer's appearance has been executed and a copy thereof has been filed with the county ~~coordinator~~ manager.

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

(1) Any beverage containing alcohol of more than one (1) percent by weight unless the festival is approved by the county manager, pursuant to the requirements contained herein, to allow the consumption and/or sale of beer and wine. In the event beer and wine sales are to occur at the festival, the promoter shall supply the county manager with a copy of the alcohol sales license obtained by regulating agency; or

(2) Any container made of glass.

(c) *Conduct of festival; damages.* The festival promoter shall be responsible for the orderly and 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 ~~coordinator~~ manager may suspend or revoke a permit issued under this chapter for violation of any section of this chapter 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 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.~~ any section of this ordinance.

Section 8. Exemption.

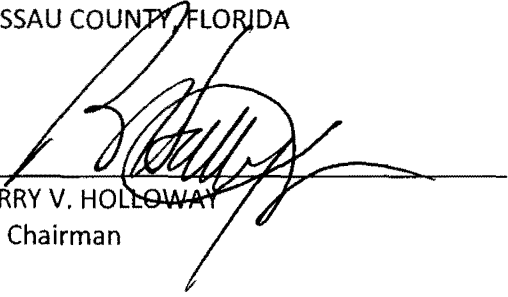
- (a) *Attendance affidavit.* The preceding sections 2 through 7 inclusive, shall not apply to a festival if:
 - (1) The promoter files sworn affidavit that the attendance at the festival is three hundred persons or less; and
 - (2) The county ~~coordinator~~ manager concurs in the estimate in writing and issued to the promoter an exemption certificate.
- (b) *Basis of attendance estimate.* Each attendance affidavit by the promoter 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.
- (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 (8) hours in any twenty-four-hour period, under no circumstances, however, shall the festival be conducted within the hours of 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 to violate this section.

Section 9. Appeal.

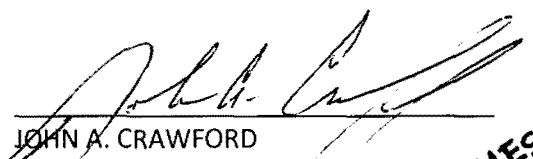
The applicant or permittee may file a written appeal as to the decision of the county ~~coordinator~~ manager to deny a permit or revoke a permit. Said written appeal shall be filed within twenty (20) days of the county ~~coordinator's~~ manager's actions. The board of county commissioners will consider 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.

DULY ADOPTED this 13th day of January, 2014.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

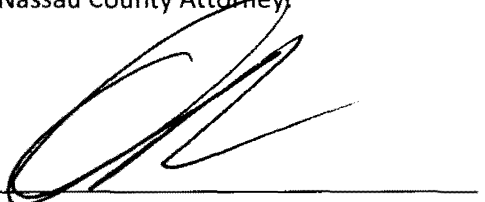

BARRY V. HOLLOWAY
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:


JOHN A. CRAWFORD
Ex-Officio Clerk

MES
01-16-14

Approved as to form by the
Nassau County Attorney


DAVID A. HALLMAN