

CITY OF DAPHNE
ORDINANCE NO. 2017-78

**AN ORDINANCE ESTABLISHING A POLICY
FOR EVENTS HELD WITHIN THE CITY OF DAPHNE**

WHEREAS, the City Council of the City of Daphne has determined that it is in the public interest to provide access to city-maintained roads for the purpose of holding parades, races, and other special events; and,

WHEREAS, to ensure that City resources are properly utilized, and to ensure the safety of participants for these events, the Council desires to provide for an established procedure for the administration of parades, races, and other events requiring City assistance; and,

WHEREAS, Ordinance 2017-35 is repealed in its entirety and replaced with the following:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA:

SECTION 1. DEFINITIONS

Unless the context clearly indicates a different meaning, the words, terms and phrases used in this Ordinance shall have the following respective meanings:

"City" shall mean the City of Daphne in the State of Alabama.

"Complete application form" shall mean a properly filled out application and all supporting documents.

"Person" shall mean any person, entity, firm, corporation, partnership, association, administrator, trustee, or other fiduciary.

"Race" shall mean any running event, which may but not necessarily be timed, that requires closure of City roads for the safety of participants.

"Band" shall mean a band, DJ, radio, CD player or any means to produce music outside.

"Special Event" is any event, including but not limited to parades, races, use of bands, cook-offs, or pastry sales, that significantly impacts the use of streets, roads, or other public place in the City.

"Parade" is any formal public procession, march, ceremony, show, exhibition, pageant, or a group of persons or vehicles containing persons moving forward in an orderly,

ceremonious, or solemn procession, or any similar display in or upon any street, park or other public place in the City.

“Permit” is a permit as required by this Ordinance.

“City Council” is the City Council of the City of Daphne.

“Street” is any part of a public right-of-way in the City, including, but not limited to, that part known as a sidewalk.

SECTION 2. APPLICATION PROCESS

1. The City will create an approved Special Events Application Form. The current version of the Special Events Application Form is herein attached as an example but is not the definitive form. The form may be altered periodically by the City Council or its designee. This Form will be the only manner in which a request for City approval of all special events, including but not limited to parades, races, use of bands, and fundraising sales, will be entertained.

2. If a permit is issued, said permit will exempt the Special Event from Ordinance 2012-35, commonly known as the Noise Ordinance.

3. Application forms will be available upon request from the City Clerk’s office or online at www.daphneal.com.

4. No person shall engage in, participate in, aid, form or start any Special Event, unless a permit shall have been obtained from the City Council.

5. This Ordinance shall not apply to:

- a. Funeral processions;
- b. Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities;
- c. Any governmental agency acting within the scope of its functions;
- d. Lawful picketing on sidewalks near the individuals’ place of work; and
- e. Demonstrations that do not involve the use of vehicles, animals, fireworks, pyrotechnics, or equipment, provided that:
 - i. No fee or donation is required or requested as a condition of participation in or attendance at such demonstration; and
 - ii. The City Clerk is notified at least 48 hours in advance of the commencement of the demonstration.

SECTION 3. APPLICATION SUBMISSION DEADLINES

1. Applicants may not submit a permit for an event earlier than one (1) year before its scheduled date of occurrence.
2. Persons seeking to have their permit approved in a timely manner should complete their application form and submit it to the City Clerk's Office no later than as described below:
 - a. For events requesting closure of City streets, or with over 200 expected participants, a completed application form must be submitted no later than sixty (60) days before the event date.
 - b. For any other events requesting use of City property, a completed application form must be submitted no later than thirty (30) days before the event date.
 - c. All other permits must be submitted no later than fifteen (15) days before the event date.
3. The City Council, where good cause is shown therefore, shall have the authority to consider any application hereunder which is filed less than ten (10) days before the date such event is proposed to be conducted.

SECTION 4. PERMIT APPROVAL PROCESS

The City Council shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

1. All Special Event permits have been approved by the Fire Chief and Police Chief, or their designees.
2. All Special Event permits related to band, parade and race permits, or which may impede the flow of traffic, have been approved by the Public Works Director or his designee.
3. All Special Event permits to include activity at or around any City park or other recreational facility have been approved by the Parks and Recreation Director or his designee.
4. The conduct of the Special Event will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent reasonable police protection of the City.
5. The conduct of such Special Event will not require the diversion of so great a number of ambulances as to prevent reasonable ambulance services to portions of the City.
6. The concentration of persons, animals and vehicles at assembly points of the Special Event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
7. The conduct of such Special Event will not interfere with the movement of firefighting equipment in route to a fire.

8. The conduct of the Special Event is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

9. If the Special Event is a parade, it is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route. The parade will not substantially interrupt the safe and orderly movement of other traffic continuous to its route

10. The Special Event is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

11. Absent specific approval by the City Council, no special event or other permitted event may operate between the hours of 11:00 p.m. and 7:00 a.m.

SECTION 5. INSURANCE REQUIRED TO CONDUCT SPECIAL EVENTS

1. The event organizer of a special event must possess or obtain comprehensive general liability insurance from no less than an A-rated company to protect the City against loss from liability imposed by law for damages on account of bodily injury and property damage arising from the event. Such insurance shall name the City, its officers, employees, and agents and, as required, any other public entity involved in the event, as additional insured. Insurance coverage must be maintained for the duration of the event, including pre-event setup and post-event clean-up. Notice of cancellation shall be provided immediately to the City. When applicable, the City may require proof of workers compensation and auto liability insurance.

2. Except as provided in section 5-3, comprehensive general liability insurance coverage required by section 5-1 shall be in a combined aggregate limit of not less than \$1,000,000.00.

3. The insurance required by section 5-1 shall be provided for the benefit of the City and not as a duty, express or implied, to provide insurance protection for spectators or participants. The event organizer's current effective insurance policy, or copy, along with necessary endorsements, shall be filed with the City Clerk at least sixty (60) calendar days before the event, unless the Mayor for good cause modifies the filing requirements.

4. No permit is valid until the applicant shall accept the classification and conditions imposed in accordance with the resolution of Council, as well as the applicant's agreement to hold harmless the City and its officers and employees from any damages to persons or property on claims that arise from the permitted event and by paying the applicable fees and providing adequate insurance.

SECTION 6. HOLD HARMLESS

1. Except for special events where the sale of alcoholic beverages is authorized or for traffic control issues, the insurance requirements of section 5 may be waived by the City Council. In making the determination of whether to waive insurance, the City Council shall consider the following factors:

- a. Whether the special event is expressive activity protected by the First Amendment;

- b. Whether the applicant or an officer of the sponsoring organization of a nonathletic event has filed a verified statement that he or she believes the event's purpose is First Amendment expression;
- c. Whether the applicant or officer of the sponsoring organization has determined that the cost of obtaining insurance is financially burdensome and would constitute an unreasonable burden on the right of First Amendment expression;
- d. Whether the event will involve the use of equipment (other than sound equipment), vehicles, animals, fireworks, or pyrotechnics; and
- e. Whether a fee or donation is charged or required as a condition of admission or participation in the event.

2. The statement required by subsection 6-1(c) shall include the name and address of one insurance broker or other source for insurance coverage contacted to determine premium rates for coverage.

3. Even if insurance is waived, no permit may be issued without the organizer of a special event agreeing to defend, indemnify, and hold harmless the City from any claim or liability arising from the event.

SECTION 7. DESIGNATED ROUTES AND TIMES FOR SPECIAL EVENTS

1. In addition to completing an application form as noted in Section 3 above, applicants requesting the closure of City streets will be required to specify a route for their event. Applicants for race events are limited to selecting from the three (3) provided pre-approved, certified routes which shall be published on the City's website. Applicants requesting street closure for events other than races may either select from the pre-approved race routes or request a custom route subject to approval by the Fire Chief, Police Chief, and Public Works Director.

2. Unless otherwise approved by the City Council, races may only be held on Saturdays, with set up beginning no earlier than 7 a.m. and ending no later than noon. Roads must be cleared by 10 a.m.

3. Mardi Gras events must be held in accordance with the provisions of Ordinances 2003-17 and 2005-03.

4. The number of races requiring street closures within one calendar year shall be limited to eight (8). The number of events other than races requiring street closures within one calendar year shall be limited to three (3). The following events requiring street closure shall not be subject to the annual limitations of this subsection: events associated with national holidays, weekday runs or walks associated with the normal operation of public and private schools, Mardi Gras parades, the annual Jubilee Festival, and any parade organized by a school within the limits of the City of Daphne.

5. The City Council shall act upon the application for a Special Event permit within a reasonable time but no later than thirty (30) days after the filing thereof. If the City Council fails to act within those thirty days, the application is deemed denied. If the City Council disapproves the application, the City Clerk shall mail to the applicant within six (6) days after the

date upon which the Council acted, a notice of the City Council action, stating the reasons for denial of the permit.

SECTION 8. CITY LISTED AS EVENT SPONSOR

1. All events requesting street closures or use of City property shall be required to list the City as an event sponsor on any advertising or merchandise (including but not limited to t-shirts, flyers, signs, and newspaper advertisements). Listing may include use of the City logo if deemed necessary by the City Council or its designee.

2. Permittee shall comply with all permit directions and conditions and will follow all applicable laws and ordinances.

3. The parade chairman or other person leading such activity shall carry the Special Event permit upon his person for the duration of the Special Event.

SECTION 9. PUBLIC CONDUCT DURING SPECIAL EVENT

1. No person shall unreasonably hamper, obstruct, impede, or interfere with any Special Event or Special Event assembly or with any person, vehicle or animal participant or used in a Special Event. The permit language may put reasonable restrictions as to the conduct of the Special Event including but not limited to location and timing.

2. No driver of a motor vehicle, street car, golf cart, rickshaw, or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

3. The City Council shall have the authority to prohibit or restrict the parking of motor vehicles and other modes of transportation along the highway or part thereof constituting a part of the Special Event. The City Council may cause the Police Chief to post signs to such affect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

SECTION 10. PENALTIES

Any person or persons or association of persons, violating any of the provisions of the foregoing sections, shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than \$25 nor more than the maximum allowed by law and may also be sentenced to imprisonment or hard labor for not exceeding six (6) months.

SECTION 11. RIGHT TO CANCEL/REVOCATION OF PERMIT

1. The City of Daphne reserves the right to cancel or postpone events for any reason deemed necessary by the City Council.

2. The City Council shall have the authority to revoke a parade permit issued hereunder upon failure of the applicants or participants to comply with the standards for issuance and the provisions herein set forth and such authority may be delegated to the officer or such other person designated by the City Council to supervise said parade.

SECTION 12. FEES

1. There are no fees for special events but donations to the City to offset costs may be accepted.
2. Refunds for donations associated with an Special Event permit are authorized only if written notice of cancellation is given to the City Clerk's office no later than 3:00 p.m. on the day before the event is scheduled to occur.

SECTION 13. APPROVED PERMITS

Within six (6) business days of approval, the applicant will be notified and a copy of the permit shall be supplied to them. All approved permits shall additionally be submitted to any appropriate City departments for adequate notification.

SECTION 14. SEVERABILITY

If any section, subsection, clause, provision or part of this Ordinance shall be held to be invalid or unconstitutional in a court of competent jurisdiction, such holding or holding shall not affect any other section, subsection, clause, provision or part of this Ordinance which is in itself and of itself valid and constitutional.

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect and be in force commencing January 1, 2018, and following publication as required by law.

ADOPTED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, ON THIS THE 2ND DAY OF OCTOBER, 2017.

CITY OF DAPHNE



DANE HAYGOOD
MAYOR

ATTEST:



CANDACE ANTINARELLA
CITY CLERK