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ORDINANCE NO. 2014-11

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING THE TOWN OF WINDERMERE'S CODE OF ORDINANCES TO CREATE A NEW CHAPTER 9 ENTITLED "SPECIAL EVENTS"; PROVIDING AUTHORITY, FINDINGS, PURPOSE AND INTENT; REQUIRING A SPECIAL EVENT PERMIT FOR SPECIAL EVENTS HELD ON PRIVATE PROPERTY; PROVIDING DEFINITIONS; ESTABLISHING THE APPLICATION PROCESS, PERMIT FEE, AND THE MINIMUM CRITERIA TO BE DEMONSTRATED PRIOR TO ISSUANCE OF A SPECIAL EVENT PERMIT; REQUIRING INDEMNIFICATION FROM AN APPLICANT; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Whereas, from time-to-time special events have occurred on private property in the town without a formal review procedure.

Whereas, the Town Council has determined that it is necessary in order to protect and promote the health, safety and welfare of the persons within the town to provide minimum criteria for the regulation of such special events.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE

Section 1. Amendments to the Town of Windermere's Code of Ordinances. A new Chapter 9 entitled "Special Events" is hereby added to the Town of Windermere's Code of Ordinances as follows:

Article I. Special Events Held on Private Property.

Sec. 9-1. Authority; findings; purpose and intent.

This article is promulgated by the town council pursuant to the home rule powers of the Town of Windermere, Florida. The purpose and intent of the town council in adopting this article is to identify when a special event permit is required within the town. The standards in this article are designed to protect and promote the health, safety and welfare of the persons within the town and to provide uniform requirements for the review and approval of special events held on private property.

Sec. 9-2. Permit required.

A special event permit shall be required for a special event held on private property within the corporate limits of the Town of Windermere. For purposes of this article, a special event permit is required when one or both of the following occur: (i) 250 or more people are expected to attend the special event, or (ii) a temporary structure such as a tent, equal to or larger than 1,000

47 square feet will be used during the special event. All special events shall comply with the
48 provisions set forth in this article, the Town Code of Ordinances, Land Development Code, and
49 with all terms, conditions and requirements identified in an issued permit.

50
51 **Sec. 9-3. Definitions.**

52
53 The following words, terms and phrases, when used in this article shall have the meanings
54 ascribed to them in this section, except where the context clearly indicates a different meaning:

55
56 *Applicant* means the individual(s) or entity that makes application to the town to hold a
57 special event.

58
59 *Special event(s)* means an event or activity that is characterized by its limited duration,
60 infrequent occurrence, or seasonal nature and by the fact that permanent improvements are not
61 made to the site.

62
63 *Special event application* means the form provided by the town for the purpose of
64 processing a special event.

65
66 *Special event fee* means the fee an applicant is required to pay, in accordance with the
67 special event permitting procedures, before a special event application will be processed.

68
69 *Special event permit* means the permit that is issued by the town manager.

70
71 *Special event permitting procedures* means the procedures adopted by this article, as may be
72 amended from time to time, pertaining to the issuance, suspension and revocation of a special
73 event permit.

74
75 **Sec. 9-4. Application and fee.**

76
77 (a) A person seeking issuance of a special event permit shall file a special event application
78 with the town clerk on forms provided by the town at least 30 calendar days prior to the
79 date of the special event. The application fee and any additional charges shall be
80 established by resolution and may vary depending upon the event and entities for profit
81 and entities not-for-profit as determined by the town council.

82 (b) The application for a special event permit may be changed from time-to-time by the town
83 manager to improve the information or process, but shall include the following minimum
84 information:

85 (1) The name, local and permanent address, telephone numbers and email address of
86 the applicant seeking to conduct such special event.

87 (2) If the special event is proposed to be conducted for, or on behalf of, or by an
88 organization, the names, local and permanent addresses, telephone numbers and
89 email address of the headquarters of the applicant organization and of the
90 authorized and responsible head(s) of such organization.

- 91 (3) The name, address, telephone numbers and email address of the person who will
92 be responsible for conducting the special event. If the person conducting the
93 event is not the property owner, written permission from the owner of the
94 property must be provided.
95 (4) A complete description of the special event.
96 (5) The date or dates when the special event is to be conducted, the hours of such
97 event and the location.
98 (6) The estimated number of participants or those otherwise attending, and the
99 estimated number of vehicles participating or parking near the event.
100 (7) A plan detailing the general layout of the event.
101 (8) A plan for sanitation, including disposal of waste and refuse and placement of
102 portable toilet facilities.
103 (9) Provisions for security, traffic control, crowd control and fire safety.
104 (10) Provisions for clean-up during and after the conclusion of the special event.
105 (11) Other information requested by the town manager or deemed applicable by the
106 applicant.
107

108 **Sec. 9-5. Minimum criteria prior to issuance of a special event permit.**
109

- 110 (a) A special event permit shall not be issued until the town manager determines that the
111 following criteria will be met and if deemed necessary, determines conditions to be
112 placed upon any approval to insure compliance. The applicant must show or represent
113 how the following will be provided, as applicable:
114
115 (1) All temporary structures, sanitary facilities and electrical wiring to be permitted
116 and inspected.
117 (2) All tents shall be required to be fire retardant and appropriate documentation
118 noting fire retardants is required to be provided to the town.
119 (3) The applicant shall be responsible for arranging all the required inspections prior
120 to the commencing of the event. Failure to obtain the required inspections shall
121 cause the special event permit to become void.
122 (4) Ingress and egress to the property with particular reference to automotive and
123 pedestrian safety and convenience, traffic flow and control, and access in the case
124 of a fire or catastrophe.
125 (5) The effect of the special event upon surrounding properties and general
126 compatibility with adjacent properties and other properties in the district.
127 (6) Compliance with all applicable codes, including but not limited to: buildings,
128 safety and fire regulations as approved by the police chief, fire marshal, and
129 building official. The town reserves the right to place additional conditions and
130 bill the applicant for recovery of costs associated with assuring code compliance.
131 (7) Parking and loading/staging for the special event.
132 (8) Temporary signs and temporary proposed exterior lighting with reference to glare,
133 traffic safety, economic effect, compatibility and harmony with surrounding
134 properties. All signs and lighting shall be in compliance with the town's sign and
135 lighting requirements.

- 136 (9) Adequate law enforcement services. Unless otherwise authorized by the Chief of
137 Police, the Windermere Police Department shall be the sole provider for public
138 law enforcement services. The number of public law enforcement personnel shall
139 be determined by the Chief of Police. The fee schedule for town law enforcement
140 service shall be established by resolution.
- 141 (10) Adequate fire protection services. Unless otherwise authorized by the Ocoee Fire
142 Chief, the Ocoee Fire Department shall be the sole provider for fire protection
143 services. The number of certified fire department personnel, if any, and the level
144 of fire protection services required to service any special event shall be
145 determined by the town in consultation with the fire chief, with final approval by
146 the town. The fee for fire protection services shall be established by resolution.
- 147 (11) Adequate emergency medical services. Unless otherwise authorized by the Ocoee
148 Fire Chief, the Ocoee Fire Department emergency medical services shall be the
149 sole provider for emergency medical services. The number of emergency medical
150 services personnel, if any, and the level of emergency medical care services
151 necessary shall be determined by the town in consultation with the fire chief. The
152 fee for emergency medical services shall be established by resolution.
- 153 (12) Should the services of the town public works department be required, the number
154 of personnel, type of equipment and the type of public works services required to
155 service the event shall be determined by the applicant and the town. The fee for
156 the public works department services shall be established by resolution.
- 157 (13) The number and location of portable toilets located on-site.
- 158 (14) Garbage pick-up and trash collection on-site as well as on public property within
159 1,000 feet of the property on which the special event is conducted.
- 160 (15) A plan detailing a proposed street closure. The town manager has the authority to
161 dictate the closure of any town street or roadway and/or the detour of all traffic
162 flow on any town street or roadway in relation to the management of a permitted
163 special event. Barricades and temporary signage for approved locations shall be
164 provided by the applicant, subject to approval by the town manager.
- 165 (16) Evidence that the structural integrity of all temporary structures erected for the
166 special event are safe, structurally sound and adequately based on the number of
167 persons specified to use the structure. The location of all temporary structures,
168 erected for the purpose of the event, shall be approved by the town manager.
- 169 (17) Any additional criteria deemed necessary and place any conditions and/or
170 requirements necessary to insure compliance with this article or with any
171 additional criteria that may be imposed on granting a special event permit.

172
173 (b) The applicant shall be responsible for compliance with the terms and conditions set forth
174 in any issued special event permit and the requirements set forth in this article.

175 (c) The town shall not be responsible for any costs incurred by the applicant if a permit is not
176 approved or issued for a special event.

177
178 **Sec. 9-6. Duration of the special event permit.**

179
180 A special event permit is valid for 90 days from the date of approval by the town manager.

181

182 **Sec. 9-7. Indemnification.**
183

184 The special event permit shall contain an indemnification provision to indemnify, defend, and
185 hold harmless the town in substantially the following form:

186
187 **Indemnification.** Applicant (*list others*) (the “Indemnitor”) shall at his or her own cost and
188 expense hold harmless, defend and indemnify the Town of Windermere, Florida, its Town
189 Council, employees, officers and agents (collectively the “Indemnitee”) hereunder from any and
190 all claims, demands, actions and causes of action, losses, damages, liabilities, liens, costs,
191 expenses, and court costs, including, without limitation, interest, penalties, and reasonable
192 attorneys’ fees and expenses, asserted against, related to, resulting from, imposed upon, or
193 incurred by the Indemnitee, directly or indirectly, by reason of, relating to, or resulting from loss
194 or damage or injury of any kind whatsoever (including death) which may arise from the issuance
195 of the special event permit, arising from any cause whatsoever whether foreseen or unforeseen,
196 known or unknown, whether by negligent act or omission or otherwise. Nothing herein is
197 intended to serve as a waiver or sovereign immunity by the Town to which sovereign immunity
198 from, or limitation of, liability the Town may have under the Doctrine of Sovereign Immunity in
199 section 768.28 of the Florida Statutes. Nothing herein shall be construed as consent by the Town
200 to be sued by third-parties in any matter related to or arising out of the special event or the
201 special event permit.
202

203 **Sec. 9-8. Suspension or revocation of special event permit.**
204

205 (a) Upon a failure to comply with any of the requirements of this article or any conditions or
206 requirements imposed on the approval of the special event permit, the town manager may
207 immediately suspend the special event permit and order, in writing, the use of the
208 property to immediately cease and desist until such violation is corrected.

209 (b) The town manager may revoke the special event permit. Prior to taking any action to
210 revoke the special use permit, the applicant shall be notified in writing of the violation(s)
211 and be given two days to correct the violation(s). The time to correct the violation(s)
212 may be extended by the town manager upon a showing of good cause beyond the control
213 of the applicant.

214 (c) The town manager may suspend or revoke a special event permit issued hereunder
215 instantly when a public emergency arises where the police resources required for that
216 emergency are so great that the deployment of police services for the special event would
217 have an immediate and adverse effect upon the welfare and safety of persons or property.

218 **Sec. 9-9. Appeal.**
219

220 (a) Any aggrieved applicant shall have 14 calendar days to appeal any decision by the town
221 manager to the town council. The town council shall hold a hearing on the matter and the
222 applicant shall be given written notice of the date, time and place of the hearing. The
223 applicant shall have the right to appear in person or through an attorney. The decision by
224 the town council on such appeal shall be final.

225 (b) Any person desiring to appeal a final decision of the town council under this article may
226 apply for judicial relief to the Circuit Court in the Ninth Judicial Circuit in and for
227 Orange County within 30 days after rendition of the decision by the town council.
228 Review shall be governed by the Florida Rules of Appellate Procedure.

229 **Sec. 9-10. Enforcement; penalties.**

230
231 Violations of any provision of this article may be enforced by the Town's police department and
232 violators shall be fined five-hundred dollars per violation or such other amount as may be
233 specified by resolution adopted from time-to-time by the Town Council. Each day a violation
234 exists shall constitute a separate offense. Additionally, if a person has violated or continues to
235 violate the provisions of this article, the Town may obtain an injunction or other legal or
236 equitable relief in the circuit court.

237 **Section 2. Severability.** If any provision or portion of this ordinance is declared by a court of
238 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining
239 provisions and portions of this ordinance shall remain in full effect.

241 **Section 3. Codification.** The provisions of this Ordinance shall become and be made a part of
242 the town's Code of Ordinances.

244 **Section 4. Effective Date.** This Ordinance takes effect immediately upon its enactment.

246 ENACTED this 9th day of September, 2014, at a regular meeting of the Town Council of
247 the Town of Windermere, Florida.

250 Town of Windermere, Florida

251 by: Town Council

254 by: _____

255 Gary Bruhn, Mayor

256 Attest:

257 Dorothy Burkhalter
258
259
260 Dorothy Burkhalter, CMC
261 Town Clerk

263 First reading: August 12, 2014

264 Second reading: September 9, 2014

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