

**CITY OF MCFARLAND
PLANNING COMMISSION AGENDA**

**REGULAR MEETING
CITY COUNCIL CHAMBERS
103 W. SHERWOOD AVE, MCFARLAND, CA**

**September 20, 2022
6:00 PM**

In Person Meeting

How to submit public comments:

The meetings of the Planning Commission and all municipal entities, commissions, and boards (“the City”) are open to the public. At regularly scheduled meetings, members of the public may address the city on any item listed on the agenda, or on any non-listed matter over which the city has jurisdiction. At special or emergency meetings, members of the public may only address the city on items listed on the agenda.

There is a time limitation of two minutes per person. For any item that is not on the agenda and within the jurisdiction or interest of the city, please come to the podium at this time. The Brown Act does not permit any action or discussion on items not listed on the agenda. If you wish to speak regarding a scheduled agenda item, please come to the podium when the item number and subject matter are announced, and the Chairman opens Public Comment on the item. When recognized, please begin by providing your name and address for the record (optional). Anyone wishing to submit written information at the meeting needs to furnish ten (10) copies to the City Clerk in advance to allow for distribution to Planning Commission, staff, and the media. Willful disruption of the meeting shall not be permitted. If the Chairman finds that there is in fact willful disruption of any Planning Commission Meeting, he/she may order the disrupting parties out of the room and subsequently conduct the Commission’s business without them present.

Americans with Disabilities Act:

In compliance with the ADA, if you need special assistance to participate in a city meeting or other services offered by the City, please contact the City Clerk’s office, at (661) 792-3091 ext. 2135. Notification of at least 48 hours prior to the meeting, or time when services are needed, will assist the city staff in assuring those reasonable arrangements can be made to provide accessibility to the meeting or services.

CALL TO ORDER: Chairman Marco Martinez

ROLL CALL:

Chairman, Marco Martinez
Vice Chairman, Jose Hernandez Jr.
Commissioner, Jose “Jay” Hernandez
Commissioner, Luis Sarabia
Commissioner, Jim White

3

PLEDGE OF ALLEGIANCE:

INVOCATION:

PRESENTATIONS:

None

PUBLIC COMMENT: This Portion of The Meeting Is Reserved for Persons Desiring to Address the Commission on Any Matter NOT on This Agenda and Over Which the Commission Has Jurisdiction.

Speakers Are Limited to Two (2) Minutes. Please State Your Name and Address for The Record Before Making Presentation.

No Action or Discussion Shall Be Taken on Any Item Not Appearing on The Agenda, Except That Any Planning Commissioner May Briefly Respond to Statements Made, Or Questions Posed, By Members of The Public. Concerns Or Complaints Will Be Referred to The Community Development Director's Office.

CONSENT ITEMS: The Consent Agenda consists of items that in staff's opinion are routine and non-controversial. These items are approved in one motion unless the Planning Commission removes a particular item.

1. Approval of the July 19, 2022 Meeting Minutes.

PUBLIC HEARINGS:

2. Consideration and Adoption of a Resolution Recommending the Planning Commission of the City of McFarland Approve and Recommend the Proposed Ordinance Adoption to the City Council for Title 12, adding Chapters 12.21.010 through 12.21.150 of the McFarland Municipal Code.

- Staff Report
 - a. Open Public Hearing and Receive Public Testimony:
Close Public Hearing:
 - b. Motion to Approve Resolution No. 2022-0014PC A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MCFARLAND RECOMMENDING ZONING ORDINANCE ADOPTION OF THE TEMPORARY USE EVENT PERMIT ORDINANCE.

PLANNING DISCUSSION ITEMS:

None

COMMISSIONER COMMENTS:

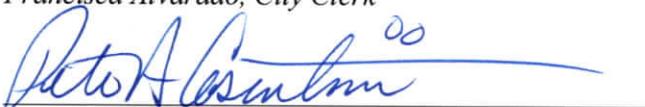
On Their Own Initiative, Commission Members May Make an Announcement or A Report on Their Own Activities. They May Ask a Question for Clarification, Make Referral to Staff, Or Take Action to Have Staff Place a Matter of Business on A Future Agenda (Government Code Section 54954.2(A)).

ADJOURNMENT:

This Is to Certify This Agenda Was Posted at McFarland City Hall on **September 15, 2022.**



Francisca Alvarado, City Clerk



Peter Cosentini, Assistant City Manager

Kenneth Williams, City Manager/ Chief of Police

The Next Planning Commission is scheduled on **October 18, 2022, at 6:00 P.M.**

THE CITY OF MCFARLAND DOES NOT DISCRIMINATE BASED ON DISABILITY AND COMPLIES WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA). IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT (661) 792-3091 AT LEAST 48 HOURS PRIOR TO THE MEETING TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING.

CITY OF MCFARLAND REGULAR PLANNING COMMISSION MINUTES

In Person Meeting

July 19, 2022

CALL TO ORDER

Chairman Marco Martinez called the meeting to order at 6:01 p.m

ROLL CALL

Commissioners Present: M. Martinez (Chairman), Jose “Jay” Hernandez, J. Hernandez Jr., L. Sarabia, J. White

Commissioners Absent: None

OFFICIALS PRESENT

Interim Community Development Director Ronk, Interim City Clerk Drake, City Planner De Leon

PLEDGE OF ALLEGIANCE

Commissioner Hernandez Jr.

INVOCATION

Chairman Martinez

PRESENTATIONS AND PROCLAMATIONS

None

PUBLIC COMMENTS

None

PUBLIC HEARINGS

None

CONSENT ITEMS

None

PLANNING DISCUSSION ITEMS

2. Motion was made by: Commissioner Hernandez to Approve **Resolution No. 2022-0013PC A** RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MCFARLAND APPROVING SIGN PLAN REVIEW 2022-002 A REQUEST TO ALLOW FOR THE INSTALLATION OF A NEW LED PYLON SIGN ON PROJECT SITE LOCATED ON THE CORNER OF ROBERTSON AVENUE AND SECOND STREET, WEST OF THE HWY-99 AS REFLECTED IN EXHIBIT A AND EXHIBIT B; 2nd by J. Hernandez

Vote: 5/0

Ayes: Martinez (Chairman), J. L. Hernandez, J. Hernandez Jr., Sarabia, White

Nays: None

Absent: None

Abstentions: None

COMMISSIONER COMMENTS

None

ADJOURNMENT

Meeting adjourned at 6:06 p.m.

Sarah Drake, Interim City Clerk



PLANNING COMMISSION STAFF REPORT
September 20, 2022

TO: Chair and Planning Commissioners
FROM: Brianahi De Leon
 City Planner
 Larry Ronk
 Community Development Director

DATE: September 20, 2022

Agenda Item	
Presentation	
Consent	
Unfinished Business	
New Business	
Public Hearing	x
Other	
Action Requested	
Ordinance	x
Resolution	
Motion	
Other	

PROJECT DESCRIPTION: Zoning Ordinance Adoption – Temporary Use Event Permit

ENVIRONMENTAL DOCUMENT: None

APPLICANT: City of McFarland

SECTION: Chapter 12.21.010 – 12.21.050

STAFF RECOMMENDATION

The staff recommends the Planning Commission to approve and recommend the presentation to City Council to adopt Title 12, adding Chapters 12.21.010 through 12.21.150 of the McFarland Municipal Code.

PROJECT DESCRIPTION

The City of McFarland desires to update its Municipal Code by adopting a chapter related to Temporary Use Event Permits. Currently a chapter on temporary events is nonexistent and any public events that do occur have to go through the Conditional Use Permit process. Through this new ordinance, the city can provide uniform and comprehensive regulations and standards related to Temporary Use Events. By creating this ordinance, the city may reduce the potential negative impacts that may arise when events are carried on without proper review of traffic, safety, and location. The Temporary Use Event Permit would not only provide an extra revenue opportunity for the city but would also give applicants the opportunity to request that the City become a partner in their event. We looked into the surrounding cities and found that they all had some form of temporary event permitting process that included an application, review process, and fees.

ENVIRONMENTAL REVIEW

None

FINDINGS

Implementing this ordinance in a uniform and comprehensive manner may not only prevent negative impacts that may arise but may create an economic opportunity for the city.

Attachment 1 – Zoning ordinance amendment / Temporary Use Event Permit

RESOLUTION NO. 2022-0014-PC
A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF MCFARLAND RECOMMENDING ZONING
ORDINANCE ADOPTION OF THE TEMPORARY USE
EVENT PERMIT ORDINANCE

WHEREAS, The City of McFarland (“City”) desires to adopt a Municipal Code Chapter related to Temporary Use Event Permits and

WHEREAS, The Ordinance updates the Municipal Code to add the definition of Temporary Use Event, and the Standards for, and Process, Procedures, and Permits necessary for attaining a Temporary Use Event Permit; and

WHEREAS, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Title 12, Chapters 12.21.010 through 12.21.150 of the McFarland Municipal Code.

WHEREAS, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from potentially deficient and/or incomplete/incompatible Municipal Code Chapters; and

WHEREAS, on September 20, 2022, following notice duly and regularly given as required by law, the Planning Commission of the City of McFarland held a public hearing to consider the adoption of the Temporary Use Permit Ordinance. The Planning Commission received a report from City Staff, oral and written testimony from the public, and deliberated on the project.

WHEREAS, all legal prerequisites to adoption of this resolution have occurred.

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of McFarland as follows:

Section 1. That the foregoing Recitals are true and correct and constitute a substantive part of this Resolution.

Section 2. Recommendation to Adopt of the Temporary Use Event Permit Zoning Ordinance.

- a. The Planning Commission finds that Temporary Use Event Permit Ordinance was presented to the Planning Commission, that the Planning Commission has reviewed the Zoning Ordinance prepared for the Project, all staff reports pertaining to the Project, and all other pertinent documents relating to the preparation of the Temporary Use Event Permit Ordinance.

- b. The Planning Commission finds that on the basis of the Temporary Use Event Permit Ordinance, comments received, and the whole record that there is no substantial evidence that the Project will have a significant adverse impact on the environment;
- c. The Planning Commission finds that the Temporary Use Event Permit Ordinance reflects the City’s independent judgment and analysis.
- d. The Planning Commission hereby recommends that the City Council adopt the Temporary Use Event Permit Ordinance attached hereto as Exhibit A and incorporated herein by reference.

Section 3. The custodian of records for the Temporary Use Event Permit Ordinance, and all other materials which constitute the record of proceedings upon which the Planning Commission’s recommendation is based is the City Clerk of the City of McFarland. Those documents are available for public review in the Office of the City Clerk, which can be reached at 661-792-3091, and is located at 401 W. Kern Avenue, McFarland, CA 93250

Section 4. This Resolution shall take effect immediately upon its adoption.

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of McFarland on the 20th day of September, 2022 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

Francisca Alvarado, City Clerk

CITY OF MCFARLAND
PLANNING COMMISSION:

Marco Martinez, Chairman

Attachments: Temporary Use Event Permit Ordinance

I, _____, City Clerk of the City of McFarland, California, DO HEREBY CERTIFY that the foregoing resolution is a true and accurate copy of the Resolution passed and adopted by the Planning Commission of the City of McFarland on the date and by the vote indicated herein.

Francisca Alvarado, City Clerk

ORDINANCE NO. 0008-2022

**AN ORDINANCE OF THE CITY OF MCFARLAND ADDING
TITLE 12, CHAPTERS 12.21.010 THROUGH 12.21.150 OF
THE MCFARLAND MUNICIPAL CODE.**

Section 1. Recitals

WHEREAS, The City of McFarland (“City”) desires to adopt a Municipal Code Chapter related to Temporary Use Event Permits;

WHEREAS, The Ordinance updates the Municipal Code to add the definition of Temporary Use Event, and the Standards for, and Process, Procedures, and Permits necessary for attaining a Temporary Use Event Permit;

WHEREAS, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Title 12, Chapters 12.21.010 through 12.21.150 of the McFarland Municipal Code.

WHEREAS, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from potentially deficient and/or incomplete/incompatible Municipal Code Chapters.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 2. Chapter 12.21.010 of the McFarland Municipal Code is hereby added to the McFarland Municipal Code to read as follows:

Chapter 12.21.010 TEMPORARY USE EVENT PERMIT

12.21.010 Definitions.

For the purpose of this chapter, the following words and meanings shall have the following meanings:

- A. “*Temporary Use Event Permit*” is a permit issued pursuant to this chapter.
- B. “*Sidewalk*” means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation for pedestrian travel.
- C. “*Street*” means a way or place of whatever nature, publicly maintained and open to use of the public for purposes of vehicular travel. Street includes highways or alleys.
- D. “*Expressive activity*” means a non-commercial activity in which a person intends to convey a lawful message through speech or conduct that is likely perceived by an observer of the speech or conduct. This includes a lawful public gathering,

demonstration, or procession, in which the primary purpose is to exercise the rights of free speech or peaceable assembly.

- E. *“Temporary Use Event”* means:
1. Any organized formation, procession, demonstration or assembly which may include persons, animals, vehicles, or any combination thereof, which is to assemble or travel in unison on any street, sidewalk or other public right-of-way owned or controlled by the city which does not comply with applicable traffic regulations, laws or controls, which is open to the public.
 2. Any organized assemblage of fifteen or more persons at any public place, property or facility which is to gather for a common purpose under the directions or control of a person open to the public.
 3. Any other organized activity involving fifteen or more persons conducted by a person for a common or collective use, purpose or benefit which involves the use of, or has an impact on, public property or facilities and which may require the provision of city public services in response thereto which is open to the public.
 4. Examples of temporary use events include, but are not limited to, concerts, circuses, fairs, festivals, block parties, street fairs, community events, mass participation sports (such as marathons and other running events), athletic or sporting events, and community celebrations and observances conducted on public property or public rights-of-way.
 5. Private events not open to the public, such as birthday parties or family reunions, which will not have any negative impact on city property or services, held at city parks are not considered temporary use events under this chapter, however, must comply with Section 9.14.020 regarding amplified sound, and any other applicable chapters.
- F. *“Commercial event”* is a for-profit event that is open to the public. May have either a free or fee entry. May include but not limited to a fair, festival, exhibition, or carnival.
- G. *“Non-commercial event”* is an activity or event that does not involve commerce. Typically, these events are held by nonprofit organizations and staffed by individuals volunteering.
- H. *“Block”* means a portion of a road with homes along both sides and its length depends on distance listed for the permit.

12.21.020 Purpose and Applicability.

This section provides standards for the establishment of short-term activities, special events and temporary uses on public or private property. The temporary use permit shall allow for short-term activities. These activities shall be regulated so as to avoid incompatibility between such uses and surrounding areas.

12.21.030 Permitted Temporary Use Events.

A Temporary Use Permit is required for any temporary use on private or public property that is proposed in a location where the use would not otherwise be allowed by the applicable zoning. Temporary Use Events may include, but are not limited to the following uses and are permitted in the listed zones:

Table 1:

Permitted Temporary Uses with an Approved Temporary Use Permit	Zones	Maximum number of days per occurrence	Maximum number of events per year
Noncommercial tent meetings	All commercial and other public assembly facilities	5	12
Circus with tent	All commercial and other public assembly facilities	5	6
Commercial carnival, fair, concert, exhibit, festival, farmer markets or similar event; either outdoors or in temporary enclosures	All commercial and other public assembly facilities	5	6
Noncommercial carnival, fair, concert, exhibit, festival, celebration or similar event, either outdoors or in temporary enclosures	Public and private schools, parks, community center, church grounds, nonprofit organization sites, and commercial	5	12

12.21.040 Prohibited Temporary Uses.

The following list displays examples of temporary use events that are NOT included nor compatible with the permit use:

- A. Flea markets
- B. Swap Meets
- C. Garage Sales
- D. Firework Sales
- E. Any additional uses as determined by the Community Development Director.**

12.21.050 Required Permit.

- A. Except as provided by this Code or pursuant to the terms of a permit, lease or contract which has been specifically authorized by the city council, no person shall conduct or cause to be conducted, participate or engage in, hold, manage, permit or allow another to conduct a temporary use event, in, on or upon any city street, sidewalk, alley, park, way, public place, public property or public right-of-way which is owned

or controlled by the city without first having obtained a written permit from the Community Development Director.

- B. Except as otherwise applicable, the Community Development Director shall, within five business days, determine whether such application is or is not complete. Notwithstanding the Community Development Director's acceptance of a completed application, no event date shall be considered confirmed until a temporary use event permit is approved through City Council and issued.
- C. The Community Development Department may recommend to City Council to condition any permit issued pursuant to this chapter with reasonable requirements concerning the time, place or manner of holding such event as is necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the venue, provided that such requirements shall not be imposed in a manner that will unreasonably restrict expressive or other activity protected by the California or United States Constitutions. Conditions may include, but are not limited to, the following:
 - i. The establishment of an assembly or disbanding area for an event.
 - ii. The accommodation of an event's pedestrian and vehicular traffic, including restricting events to city sidewalks, portions of a city street, or other public right-of-way.
 - iii. Conditions designed to avoid or lessen interference with public safety functions and/or emergency service access.
 - iv. The number and type of vehicles, animals, or structures to be displayed or used in the event.
 - v. The inspection and approval by city personnel of stages, booths, floats, structures, vehicles, or equipment to be used or operated in the event to ensure that such structures or vehicles are safely constructed and can be safely operated and conform to the requirements of all applicable codes.
 - vi. A cleaning deposit if the event includes using structures, displaying, or using horses or other large animals, operation of water stations, food distribution or sales, beverage distribution or sales, and/or sale of other goods or services.
 - vii. The provision and use of traffic cones or barricades.
 - viii. The provision or operation of first aid stations or sanitary facilities, including handicap accessible sanitary facilities.
 - ix. The provision of a waste management and recycling plan, and the clean-up and restoration of the site of the event.
 - x. The use of sound amplification equipment, and restrictions on the amount of noise generated by motors and other equipment used in the course of the event.
 - xi. The manner of providing notice of permit conditions to permit participants and those businesses or residents who may be directly affected by the conduct of the event.

- xii. The provision or use of emergency vehicles.
 - xiii. The reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity.
 - xiv. The obtaining of any and all business licenses or other necessary permits required by this Code for the sale of food, beverage or other goods or services at the event.
 - xv. The manner by which alcohol sales and service, if any, shall be conducted at the event.
 - xvi. Private security, when the chief of police or his designee, determines the need for additional security for public safety purposes, the permit shall provide such security in a ratio not to exceed fifty persons per one security guard.
 - xvii. The Chief of Police, Public Works Director, Kern County Fire Department, City Clerk, and Community Development Director are authorized to promulgate additional policies, rules, and regulations.
 - xviii. The City may impose insurance requirements to protect the City from liability and other risk exposures.
- D. Issuance of a Temporary Use Events permit pursuant to this chapter does not obligate or require the city to provide city services, equipment, or personnel in support of an event although the chief of police may provide such services, equipment or personnel if such are reasonably available, and the event organizer makes provisions to reimburse the city for the cost thereof. The City may require certain City services to be provided by the City for any given event.

12.21.060 Temporary Use Event Permit Application.

The City Council shall have approval authority for a Temporary Use Event Permit. For temporary uses that are not listed in this ordinance, the Community Development Director may, at his/her sole discretion, determine whether an unlisted temporary use event requires a permit. Once application is reviewed by the Community Development Director and approved for completion then the application and documents will be reviewed by the various other staff and agencies for potential additional conditions. Once reviewed by the Chief of Police, Public Works Director, Kern County Fire Department, City Clerk, and Community Development Department, the application, documents, and any additional conditions will be taken to the City Council for possible approval. This determination shall be based on the similarities and differences with the items listed in the section 12.21.080 and an assessment of the proposed temporary use's compatibility with surrounding land uses and the zoning district in which the temporary use is proposed.

- A. An application for a temporary use event permit shall be prepared, filed, and processed in compliance with the following:
 - i. Name and address of sponsoring business or organization.
 - ii. Name and address of the party responsible for the temporary use event.

- iii. Name(s) and address(es) of property owner(s).
- iv. Assessor's Parcel Number(s).
- v. The proposed location of the temporary use.
- vi. A site plan drawn at the scale specified by the planning director, which includes the following information as it pertains to the temporary use:
 - 1. Location, existing uses and setbacks on proposed properties.
 - 2. Other specified uses of the property.
 - 3. Other specified uses of the property.
- vii. A narrative description of the proposed use including:
 - 1. Time and dates of use.
 - 2. Expected traffic generation.
 - 3. Parking and circulation.
 - 4. The number of persons engaged in conducting the temporary use event.
 - 5. The approximate number of persons, animals and vehicles that will participate in the special event.
 - 6. The kinds of animals anticipated to be part of the special event.
 - 7. A description of the types of vehicles to be used in the special event.
 - 8. The number of bands or other musical units and the nature of any equipment to be used to produce sounds or noise.
 - 9. Other equipment or services necessary to conduct the special event with due regard for participant and public health and safety.
 - 10. The number of persons proposed or required to monitor or facilitate the special event and provide spectator or participant control and direction for events using city streets, sidewalks, or facilities.
 - 11. Provisions for first aid or emergency medical services, or both, based upon event risk factors.
 - 12. Insurance information, if applicable.
 - 13. Any special or unusual requirements that may be imposed or created by virtue of the proposed event activity.
 - 14. Any other information reasonably required by the chief of police.
- viii. Letter from property owner granting permission to applicant to hold event on their property.
- ix. Such other information as shall be required by the Community Development Director.

12.21.070 Exceptions to the temporary use permit.

The following activities are exempt from the temporary use permit requirement:

- A. Funeral processions by a licensed mortuary or funeral home
- B. Activities conducted by a governmental agency acting within the scope of its authority.
- C. Assemblies or demonstrations involving expressive activity, and which are occasioned by news or affairs coming into public knowledge within five days of

such assembly or demonstrations, provided that the organizers thereof give written notice to the Community Development Director at least seventy-two hours prior to such assembly or demonstration. Such written notice shall contain all of the following information:

- i. The name, address and telephone number of the person or persons seeking to conduct assembly or demonstration. This person or these persons shall be considered a permittee for the purposes of this section.
- ii. The name, address, and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the assembly or demonstration is proposed to be conducted.
- iii. The name, address and telephone number of the person who will chair the assembly or demonstration and who will be responsible for its conduct.
- iv. The location and date of the proposed event or assembly, including the assembly area, disbanding area, and the route to be traveled.
- v. An estimate of the approximate number of persons who will be participating in the assembly or demonstration and an estimate of the approximate number of persons who will be observing the assembly or demonstration.
- vi. The time at which assembly or demonstration will start and conclude.
- vii. The type of security or other arrangements that will be provided to assure that participants are properly directed.
- viii. Events held in parks, city facilities or public property require prior approval and a letter of approval from the owner – whether that be the City of McFarland and/or the Recreation and Parks District.
- ix. The Community Development Director may impose reasonable time, place and manner restrictions on spontaneous assemblies or demonstrations governed by this section whether or not said activities are governed by the permit requirements set forth in this chapter.

12.21.080 Criteria.

The Community Development Director shall take the Temporary Use Permit application to City Council for approval if the Community Development Director finds that the following criteria has been met:

- A. The proposed use of the property is not governed by or subject to any other permit procedures provided elsewhere in this Code or other applicable laws, rules or regulations.
- B. The event will not substantially interrupt public transportation or other vehicular and pedestrian traffic in the area of its location.
- C. The event will not conflict with construction or development in the public right-of-way or at a public facility.

- D. The event will not require the diversion of public safety or other city employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the city.
- E. The concentration of persons, animals or vehicles will not unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles on the streets.
- F. The event will not unreasonably interfere with any other special event or temporary use event for which a permit has already been granted or with the provision of city services in support of other scheduled events or schedules government functions.
- G. The event will not have an unmitigable adverse impact upon residential or business access and traffic circulation in the same general venue area.
- H. The event will not adversely affect the city's ability to reasonably perform municipal functions or furnish city services.
- I. The proposed use, event or activity will not have a significant adverse environmental impact.
- J. That in the case of a block party or other similar neighborhood event, the applicants have submitted a petition in favor of the event which has been signed by individuals representing at least sixty-six percent of the households on the block affected by the permit.
- K. That the provisions of sections 12.21.120 and 12.21.130, if applicable, have been or will be satisfied.

12.21.090 Permit Denial.

- A. The City Council may deny any application for a permit or revoke any permits if any of the following are found:
 - i. The permitted event or activity will unreasonably disrupt traffic within the city.
 - ii. The permitted event or activity will unreasonably interfere access to police or fire stations, or other public safety facilities.
 - iii. The location of the event or activity will cause undue hardship to adjacent businesses or residents.
 - iv. The permitted event or activity will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the city.
 - v. The application contains incomplete, false or misleading information.
 - vi. The applicant fails to comply with all terms of this chapter including failure to remit all fees and deposits or fails to provide proof of insurance and/or an indemnification agreement as required by this chapter.
 - vii. The event is proposed for a time and place for which another event permit has been or will be issued to a prior applicant.

- viii. The proposed area for the temporary use event could not physically accommodate the number of participants expected to participate.
 - ix. The temporary use event will violate any federal, state or local law or regulation.
 - x. The applicant or the person or entity on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage or has other outstanding and unpaid debts to the city.
 - xi. The proposed event would present an unreasonable danger to the health or safety of the applicant, spectators, city employees, or member of the public.
 - xii. The applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the city concerning the sale, offering for sale, or distribution of any goods or services.
- B. The Community Development Director may deny submitting any application for a temporary use permit to City Council or may revoke any permit if the Community Development Director determines that the event sponsor or any agent, employee or associate of any such event organizer has willfully made any false or misleading statement in an application or has not fully complied with the requirements of this chapter or has violated any of the provision of this chapter or the provisions of any other applicable law, rule or regulation.
- C. An event organizer whose permit application is denied, or whose permit is revoked, pursuant to this section shall be immediately notified of the action of denial or revocation, which notification shall contain a statement setting forth the reasons for said denial or revocation as well as a reference to the appeal provisions set forth in section 12.21.110. Notification, pursuant to this subsection, shall be deemed satisfied when the notice is place, postage prepaid, in the United States Mail, certified mail, return receipt requested, and addressed to the applicant at the address shown on the permit application.

12.21.100 Revocation.

- A. A temporary use permit may be revoked or modified by the City of McFarland Community Development Director or his/her designee, after notice for any of the following causes:
- 1. Any fraud, misrepresentation or false statement contained in the application for permit.
 - 2. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.
 - 3. Any violation of municipal code.
 - 4. Conducting the business permitted under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

5. Conducting demonstrations involving the use of hate speech, and other illegal speech or activity not guaranteed or protected by the California or U.S. Constitution.
- B. The Community Development Director, City Manager, or their designees, may immediately terminate any funeral procession, meeting, or temporary use event for public safety reason after giving the event organizer, or his/her designee, verbal notification that a public safety hazard exists and the event organizer or his or her designee, fail to immediately correct the hazard.

12.21.110 Appeals.

- A. Except as provided in this chapter, any person aggrieved by the issuance, denial or revocation of a permit pursuant to this chapter may appeal such decision to the city council by filing a written notice of such appeal with the city clear within five business days of the decision of the Community Development Director, City Manager, City Council, or designee, giving rise to said appeal. Such appeal shall set forth, with particularity, the facts upon which the appeal is being made. The city council shall, within thirty days of receiving such notice of appeal, hold a hearing. At such hearing, the aggrieved party is entitled to be heard and present evidence on his or her behalf. The city council shall determine the merits of the appeal, and the city council's determination to grant or deny the appeal shall be final. When the necessity for a timely response so requires, the city council may refer to the matter to the Community Development Director.
- i. Any applicant for a temporary use event permit who is engaging in or intends to engage in "expressive activity" as defined in this chapter and who is aggrieved by the denial or revocation of a permit pursuant to this chapter may, at his or her election, appeal to the city council in accordance with this section. However, any appeal taken pursuant to this section may, by necessity, involve the postponement or delay of the activity for which a permit is sought.

12.21.120 Insurance.

- A. Each permit shall expressly provide that the permittee agrees to defend, protect, indemnify and hold the city, its officers, employees and agents free and harmless from and against any and all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of permittee, its officers, agents or employees in connection with the permitted event or activity; and the permit shall expressly provide that the permittee shall, at permittee's own cost, risk and expense, defend any and all claims or legal actions that may be commenced or filed against the city, its officers, agents or employees, and that permittee shall pay any settlement entered into and shall satisfy and judgment that may be rendered against the city, its officers, agents or employees as a result of the alleged acts

or omissions of permittee or permittee's officers, agents or employees in connection with the uses, events or activities under the permit.

- B. Except for block parties, concurrent with the issuance of a permit under this chapter, and as a condition precedent to the effectiveness of the permit, the permittee shall procure and maintain in full force and effect during the term of the permit a policy of insurance from a reliable insurance company authorized to do business in the state, which policy includes the city, its boards, officers, agents and employees as named insured's or additional named insured's and which provides the coverage that the chief of police determines to be necessary, reasonable and adequate under the circumstances.
- C. If the Community Development Director and the city attorney determines that a particular use, event, or activity does not present a substantial or significant public liability or property damage exposure for the city or its officers, agents and employees, the Community Development Director may give a written waiver of the insurance requirements of this section.
- D. The insurance requirement set forth in this section shall not be construed to apply to temporary use events permitted under this chapter involving expressive activity which enjoy protection under the United States or California Constitutions except that such temporary use events shall be required to either: (1) agree to indemnify, protect, defend and hold harmless the city, its officers and employees against all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of permittee, its officers, agents or employees in connection with the permitted event or activity; or (2) agree to redesign or reschedule the permitted event to respond to specific risks, hazards and dangers to the public health and safety identified by the risk manager as being reasonably foreseeable consequences of the permitted special event; or (3) provide insurance coverage as required by Subsection B of this section.
- E. A claim for exclusion and alternative treatment under subsection D of this section shall be filed with and at the same time as an application for a permit, and an agreement or proof of insurance, as applicable, shall be provided prior to permit issuance. The Community Development Director or his or her designee may require such proof and documentation as he or she may deem reasonably necessary to verify the constitutionally protected status of the event and the applicability of subsection D of this section.

12.21.130 Fees.

- A. In addition to the payment of the nonrefundable permit application fee, a permittee shall pay the city for all city departmental services charges incurred in connection with or due to the permittee's activities under the permit unless said departmental services charges are funded, partially funded or waived by action of the city council. Additionally, if city property is destroyed or damaged by reason of

- permittee's use, event or activity, the permittee shall reimburse the city for the actual replacement or repair cost of the destroyed or damaged property.
- B. City departments and review agencies shall submit the final invoices and billings for departmental service charges to the Community Development Director after the permit approval from City Council in order to be issued the Temporary Use Event Permit.
 - C. The Community Development Director shall determine the type of permitted event or activity and calculate the final departmental services charge based on the following formulas, depending upon whether or not the event is privately funded or is funded in whole or in part by the city.
 - i.* Type A is an event which is privately funded, and the permittee will pay one hundred percent of the applicable fees or departmental services charges.
 - ii.* Type B is an event which is cosponsored by the city and the non-city permittee will pay fifty percent (or a negotiated portion) of the applicable fees or departmental services charges.
 - iii.* Type C is an event funded by the city and the city will absorb one hundred percent of the applicable fees or departmental services charges incurred by the city.
 - D. All deposit fees shall be paid in their full amount at the time the event permit is submitted for approval.
 - E. Unless otherwise authorized by the Community Development Director in writing, the applicant shall pay to the city the Temporary Use Event Permit deposit. Said deposit shall be paid with submittal of the application and documents. If the deposit is less than the final charges calculated pursuant to this section, the permittee shall pay the difference to the city within ten working days of being invoiced for such charges from the city and prior to event. If the deposit is more than such final charges, the city shall refund the difference to the permittee within the thirty days after the event.
 - F. Any indigent natural person who intends to engage in "expressive activity" as defined in this chapter who cannot obtain a permit because of an inability arising from such indigence to pay the departmental services charge may request the chief of police to recommend an alternative event or activity on a scale and an at time that would result in less costs assessed in accordance with this section. Application for indigent status shall be made at the time of permit application and shall be accompanied by such relevant information and documentation as may, in the opinion of the Community Development Director, be reasonably necessary to verify such status. For purposes of this subsection E of this section, "indigent natural person" includes, but is not limited to, a person eligible for county relief and support as an indigent person under Section 17000 et seq., of the California Welfare and Institutions Code or as said code section(s) may be amended from time to time.

12.21.140 Nontransferable.

- A. No permit shall be transferred to another site (including addition of another site to an application previously approved) or another person without written consent from the Community Development Director or his/her designee as evidenced by an endorsement on the face of the permit by the Community Development Director or his/her designee showing the site to which and/or to whom the permit is transferred and the date of the transfer. The Community Development Director or his/her designee may require compliance with any or all provisions of this chapter as a precondition to consent to any transfer.

12.21.150 Unlawful to Use City Name Without Authorization.

- A. It is unlawful for any event organizer to use in the title of the words “the city of McFarland” or facsimile of the seal or logo of the City of McFarland without prior written authorization from the City Manager.

Section 3. Notice. The City clerk shall certify to the passage and adoption of this ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 5. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

Section 6. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED, PASSED at a regular meeting of the City Council of the City of McFarland, California on the 22th day of September, 2022, by the following vote:

ADOPTED at a regular meeting of the City Council of the City of McFarland, California on the 13th day of October, 2022, by the following vote:

	Aye	Nae	Abstain	Absent
Sally Tafoya				
Maria T. Perez				
Saul Ayon				
Amador Ayon				
Ricardo Cano				

Francisca Alvarado, City Clerk

I hereby certify that the foregoing Ordinance was duly and regularly adopted by the Planning Commission of the City of McFarland by a regular meeting thereof held on _____, 2022.

ATTEST:

Sally Tafoya, Mayor

APPROVED AS TO FORM:

Nathan Hodges, Interim Attorney