



**City of Waycross
Public Conduct Ordinance
Event Application**



Date Received:

Event Description:

Applicant Name:

Address:

City / State / Zip Code:

Male Female

Date of Birth:

Phone #:

Name of Organization:

Type of Organization:

Applicant's Position/Title in Organization:

Organization's Address:

City / State / Zip Code:

Phone #:

Anticipated # of People Attending:

Date or Dates of Event:

Hours [times] Event Conducted:

Location of Event [if processional, provide mobile route of event]:

Type of Sound Amplification [if any]:

Type of Artificial Lighting [if any]:

Description of any vehicles or temporary structures to be used [temporary structures require proof of insurance coverage – see Code Section 28-111 (a) (5)]:

Description of safety, police, medical, sanitation or other personnel, equipment needed [include number, need, location, and times]:

Description of needed provisions for the safety and welfare of participants or public routes used to and from event.

Roads or public spaces [facilities] that will be closed to the public during the event.

Types of signs, displays, posts, placards or banners that will be used [to include size, material or any components]. Will the signs be handheld?

Have you or your organization [entity] held or participated in a similar event? If so, provide location(s) and date(s). Did the event result in any legal action either civil or criminal? If so, explain in detail.

Are you or your organization [entity] in default or in arrears of any judgment, civil, criminal or administrative? Are you or your organization [entity], whether or not they are operating under the same name, in violation of any injunction or restraining order resulting from participation in any prior event or substantially similar in nature to the event for which you are making application? If so, give a description of said judgment or order and an explanation for non-compliance.

_____ (initial) **I acknowledge that I have received a copy of the Public Conduct Ordinance [Sections 28-108 – 28-118] and Presence and Conduct in Public Parks [Sections 28-151 – 28-155] and understand my rights, duties and responsibilities under the City’s Code of Ordinances.**

_____ (initial) **I also understand that the permit can be revoked for any of the reasons set forth in City Code Section 28-113.**

_____ (initial) **I understand that this permit allows usage of a public park and that no one can be charged a fee to enter or remain in a public park or on public property.**

_____ (initial) **I understand that no one can be charged a fee to locate, operate and/or sell merchandise, items, food or drink in a public park.**

_____ (initial) **I understand that anyone selling merchandise, food or drink in a city park must have a valid peddler’s license issued by the City; must also have and display a Ware County health department-issued state department of public health mobile food service permit; and must have permission from the city manager to operate in any public area.**

Attached:

Hold Harmless / Indemnification Agreement

Proof of insurance coverage (if any temporary structures being constructed or used)

Bond / Security Deposit

IN WITNESS WHEREOF, the parties have executed this application or caused it to be executed by their representative(s) duly authorized as the date and year first mentioned above in this agreement.

Signature of Applicant

Witness

Date Signed: _____

 Head, Public Works _____
[approving use of signs, etc. pursuant to Code § 32-136]

Chief, Fire Department _____

Head, City Engineer _____

APPROVED **DENIED**

Chief of Police

Date signed: _____

INDEMNIFICATION AGREEMENT

FOR VALUE RECEIVED, including the right to hold a public function on property belonging to the City of Waycross, Georgia, the undersigned jointly and severally agree to indemnify and hold harmless the City of Waycross, Georgia and its successors and assigns from any claim, action, liability, loss damage or suit, arising from the following:

In the event of any asserted claim, the City of Waycross shall provide the undersigned written notice of same, and thereafter the undersigned shall at its own expense defend, protect and hold harmless the City of Waycross, Georgia against the asserted claim or any loss or liability there under.

If the undersigned shall fail to so defend and/or indemnify and hold harmless, then in such circumstance, the City shall have full rights to defend, pay or settle said claim on their own behalf without notice to undersigned and with full rights to recourse against the undersigned for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim.

Upon default, the undersigned further agree(s) to pay all reasonable attorney fees necessary to enforce this agreement.

This agreement shall be unlimited as to amount or duration.

This agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns, and/or personal representatives.

This _____ day of _____, 20_____.

Signature of Lessee

Witness

Chapter 28 - OFFENSES

ARTICLE II. - OFFENSES AGAINST PUBLIC SAFETY AND HEALTH

DIVISION 2. - PUBLIC CONDUCT

Sec. 28-108. - Purpose.

The purpose of this division is to promote and regulate the use of public spaces and facilities within the corporate limits of the city and any other public space or facility owned by the city, which is not subject to a lease for a term longer than one year (hereinafter referred to as "city"), consistent with the dedicated uses and maintenance of such public properties, the preservation of public safety, lawful commerce, and rights of access and traverse in preservation of natural and historic environments, and the protection of the well-being, peace, privacy, and good order necessary to the free enjoyment by citizens of the rights to private property and personal pursuits. Furthermore, it is the specific intent of city in enacting the ordinance from which this division is derived to regulate only the time, place, and manner of events and not the content or message of any speech or expressive conduct.

Sec. 28-109. - Application review.

(a) The city police chief or his designee (hereinafter referred to as the "police chief") shall be vested with the responsibility of receiving applications for and acceding to or denying permits for conduct in public spaces and facilities (hereinafter referred to as the "event") in the city.

(b) The police chief shall determine whether to permit or to refuse to permit any such events in or about public spaces solely on the basis of the factors or combination of factors set out hereinafter, and in light of a presumption that all events not inconsistent with the goals of this division hereinbefore enumerated shall be permitted at all reasonable times and places.

Sec. 28-110. - Use of public spaces and facilities.

No person shall, without first being permitted by the police chief or his designee after application made according to the requirements set out hereinafter:

- (1) Conduct a public assembly, parade, demonstration, or other like event, either fixed or processional, involving more than 50 individuals for a common purpose, due to either prior planning or spontaneous gathering, on, over, upon, or burdening the public properties of the city, or utilizing the facilities thereon, which has the effect, intent, purpose, or propensity to attract the notice of people who are not a part of such public assembly, parade, demonstration, or event;
- (2) Circulate or distribute any leaflets, handbills, notices, pamphlets, books, documents, or papers of any kind in any indoor public facility of the city, except during those events regulated or sponsored by the city;
- (3) Bring, land, or cause to ascend or descend or alight any airplane, helicopter, flying machine, balloon, parachute, or other apparatus for aviation on, over, or upon the public properties of the city, or facilities thereon;
- (4) Bring a nondomestic, supervised, and controlled or restrained animal for limited noncommercial or promotional purposes on, over, or upon the public properties of the city, or facilities thereon;
- (5) Station or erect any building, stand, bandstand, stage, tower, scaffold, sound stage, platform, rostrum or other structure on, over, or upon the public properties of the city;
- (6) Create or emit any electronically amplified sound, on, over, or upon the public properties of the city, except from a radio, recorder or other device, which is possessed and used by an individual for his own enjoyment and is operated in such a manner so as to not interfere with the use and enjoyment by any other person; or
- (7) Conduct any exhibit, music, or dramatic performance, fair, circus, concert, play, radio or television broadcast, other than a news transmission on, over, or upon the public properties of the city; or station or use any electrical or electronic device or equipment that would require outdoor auxiliary power.

Sec. 28-111. - Application.

(a) Within no less than five calendar days prior to an event, the person associated in fact, whether or not a legally recognized entity, who wish to conduct an event requiring a permit, as set forth herein, shall apply to the police chief or his designee for such permit. Such application shall at a minimum include:

(1) The name, address, gender, and birth date of the applicant. If the applicant is an association of persons in fact or in law, the application shall contain a description of the entity; the name of said entity, if named; the registered or recognized address of the entity, if any; the name of the person making the application on behalf of or as a representative of said entity; such person's relationship to said entity; and some demonstration or recitation of the authority of the person making the application to act on behalf of the entity.

(2) A plan for review by the police chief or his designee, which plan will include:

- a. The anticipated number of persons participating in the event;
- b. The date of the event;
- c. The hours of each day the event will be conducted;
- d. The exact location of said event, or, if the event is processional or mobile, the route of the event;
- e. Whether sound amplification equipment will be employed;
- f. Whether artificial lighting will be employed;
- g. Whether temporary static structures will be constructed or employed, whether vehicles will be employed, and if so, a description of same sufficient to permit the police chief or his designee to evaluate the permitting factors set out hereinafter;
- h. A description of the anticipated need for safety, police, medical, sanitation, and other required personnel and equipment, with the anticipated needed numbers and posting by location and time of such personnel and equipment;

i. A description of provisions necessary to the safety and welfare of the participants in the event and members of the public in the area where the event will be conducted and routes of access thereto and therefrom;

j. Whether the event will require that the public spaces or facilities to be used or burdened, or the routes and means of access thereto and therefrom, be temporarily diverted from their dedicated or customary uses, or the public or private users thereof be diverted or excluded from, or limited in their use or enjoyment of, or their access to or through, said spaces or facilities, before, during, or after the event; and

k. Whether a sign or any other kind of display, post, placard, or banner will be used, and if used, the size, material, and components of the sign, and whether such will be handheld or not.

(3) A disclosure as to whether the applicant or entity for whom the application is being made has in the past conducted or participated in an event of a substantially similar nature to that which is the subject to the instant application, and, if so, where and when such prior event took place, and whether as a result of such event the applicant or entity became the subject, whether or not then operating under the same name, as plaintiff or defendant, of any legal action, civil, criminal, or administrative.

(4) A disclosure as to whether the applicant or entity for whom the application is being made has defaulted upon or is in arrears as to any judgment civil, criminal, or administrative rendered against the applicant or entity, or is in violation of any injunction or restraining order entered against the applicant or entity, whether or not then operating under the same name, as a result of participation in any prior event of a substantially similar nature to that which is the subject to the instant application, and if so, a description of said judgment or order and an explanation for noncompliance.

(5) An indemnification and hold harmless agreement in favor of the city, its elected officials, officers, agents and employees, in a form reasonably satisfactory to the city manager. Such agreement shall also provide that applicant, or the entity on whose behalf the application is being made, promises and covenants to bear all the costs of cleanup, repairs, and restoration necessitated by the event. If temporary

structures, including but not limited to stages, grandstands, tents, canopies, bounce houses or inflatable slides, will be constructed, set up, employed and/or used, applicant shall also procure and submit to the chief of police, or his designee, proof of insurance coverage for general liability (to include coverage for collapse of temporary structure and bodily injury/property damage) in the amount of at least one million dollars per occurrence and two million dollars aggregate;

(6) A security deposit, which shall be in the form of cash, certified funds, or U.S. Postal Service money orders in an amount equal to the estimated cost of providing police protection during the permitted event, and cleaning up, inspecting, and restoring the property or premises upon the conclusion of the event. At the conclusion of the event, the city shall inspect the premises and equipment used by the permittee.

a. If it is determined that there has been no damage to the property, the security deposit shall be refunded in full within 30 calendar days of the conclusion of the permitted event.

b. If it is determined by an inspection that the permitted event caused damage to the city property which requires repairs or if it is determined that fines assessed against the permittee pursuant to section 28-116 have not been paid, the city shall retain the security deposit, or any portion thereof, necessary to pay for the repair cost or for any unpaid fines assessed against the permittee.

c. The city manager or his designee shall give the permittee written notice of any assessment of damages or any assessment of unpaid fines and shall notify same of the retention of the security deposit. The notice shall be delivered to the permittee by personal delivery or by deposit in the United States mail, with proper postage prepaid to the name and address set forth in the application for permit. Any assessment of damages or fines in excess of the security deposit shall be paid to the city within ten calendar days after notice of such assessment of damages or fine is sent. Retention of all or a portion of a security deposit, or an assessment in excess of the security deposit shall be subject to the appeal procedures contained in section 28-114.

d. If an application is denied, the security deposit shall be retained for no more than 14 calendar days after all appeals provided for herein have been exhausted, or the time for appeal as provided for herein has expired, or written notice has been received by the city manager that the application for permit is no longer being requested, whichever comes first.

(7) Where an event conducted on, over, upon, or burdening public properties, or employing the facilities thereon, which is also to substantially involve or take place partly or wholly upon private property with the consent of the owner thereof, such owner or their authorized representatives must join as an applicant for any permit for such event.

Sec. 28-112. - Review by the police chief or his designee.

(a) Within five working days of the receipt of a fully completed, executed, and filed application, the police chief or his designee shall review the application in light of all of the contents thereof and the goals, intentions, and presumptions of this division as set out hereinbefore, and render a decision and communicate same to applicant, either permitting the event as planned or denying a permit for same. If the permit is denied, the police chief or his designee shall provide the applicant in writing a statement of the reasons therefor. (First class mail to the address provided by applicant, postmarked no more than ten working days after receipt of the fully completed, executed, and filed application, shall be sufficient for this purpose, though not the exclusive means of notice.)

(b) Nothing in this process shall prevent the police chief or his designee, at his sole option and within the five-working-day period for approval or denial, to confer with applicant with respect to modifications of applicant's plan for the event, and amend the application to reflect such modifications if agreed to by applicant. However, the applicant may neither supplement nor amend his application within said five-working-day period except at the invitation of the police chief or his designee. Any attempt to do so sua sponte shall be deemed a separate and new application.

(c) The police chief or his designee may deny the application for permit upon any of the following reasons or combination of reasons:

(1) The application does not contain all required information or materials, or the information set out in the application is so incomplete, vague, or ambiguous as to prevent full and proper review by the police chief or his designee;

(2) The application contains material omissions, falsehoods, or misrepresentations;

(3) The applicant, or entity represented by applicant, is incompetent to contract, sue, or be sued;

(4) The person applying lacks authority to represent the entity for which the application is made;

(5) The applicant or entity represented by applicant has on prior occasions damaged public property, or has not paid in full for such damages, or is in arrears as to any judgment civil, criminal, or administrative rendered against the applicant or entity, or is in violation of any injunction or restraining order entered against the applicant or entity, whether under the same name or another;

(6) The applicant or entity represented by applicant has on prior occasions violated permitting ordinances in connection with events of a substantially similar nature;

(7) The plan of the event as proposed is likely to present a danger to the health or safety of participants in the event or other members of the public (though not through the agency of any predicted reaction by onlookers or members of the public);

(8) The plan of the event as proposed is likely to restrict and/or congest traffic (vehicular or pedestrian) on any of the public roads, rights-of-way, sidewalks, or waterways in the immediate vicinity of such event;

(9) The plan of the event as proposed is likely to cause a disturbance of the peace, or is likely to burden lawful commerce in the area at the time of the

proposed event, or is likely to intrude upon the privacy or property of citizens in the area of the proposed event;

(10) The plan of the event as proposed includes activities which are prohibited by laws of the United States, the state, or ordinances of the city, or activities which constitute nuisance or tortious conduct with respect to public or private property or persons;

(11) The plan of the event as proposed would conflict with previously planned programs or events organized and conducted by the city and previously scheduled for the same time and place;

(12) The plan of the event as proposed is prohibited by or is inconsistent with the classifications and uses of the proposed or desired location;

(13) A fully executed prior application for permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of that particular space; or

(14) The plan of the event as proposed includes the use of sign, display, post, or placard, banner which exceed two feet by three feet in size, are made of a material other than paper, cardboard, poster board, or foam, are attached or affixed to any wooden, plastic, metal, or other type of support, or are draped or affixed to any of the city property, including, but limited to, the ground, trees, and buildings within the city.

(d) It is the specific intent of the city in enacting the ordinance from which this division is derived to regulate only the time, place and manner of events and not to regulate the content or message of any speech or expressive conduct. The factors enumerated in subsection (c) of this section, which we find express and support the substantial and compelling interests of this governing body in the preservation of the rights and liberties of its citizens and the safety, health, and good order of its society, are the only bases upon which the police chief or his designee shall decide to issue or deny a permit applied for hereunder and no such decision shall be made or justified based upon the anticipated or predicted content of the speech or expressive conduct of any applicant.

Sec. 28-113. - Revocation.

(a) For events that have been granted a permit or events that do not require a permit, the city police department shall have the authority to terminate an event at any time, or prevent its initiation, should traffic, weather, or other conditions develop which present an imminent danger to those participating in the event or to the public at large. If an event is permitted and is terminated pursuant to this subsection, the permit shall be revoked for that day only.

(b) The city police department shall have the authority to terminate the event at any time or prevent its initiation should any consideration or combination of considerations enumerated herein as a ground for denial of a permit arise or first become apparent to the city police department after the grant of a permit. If an event is terminated pursuant to this subsection, the permit shall be permanently revoked.

(c) If, in preparation for or after the start of an event for which a permit has been issued, participants in said event violate the terms of the permit or deviate in material fashion from the plan submitted in the application for the permit, the police department shall have the authority to terminate the event at any time or prevent its initiation. If an event is terminated pursuant to this subsection, the permit shall be permanently revoked.

(d) If a state of emergency is declared, as defined and set forth in the emergency management provisions of chapter 14, article II, any and all events, permitted or otherwise, shall automatically be terminated and any permits therefor shall be permanently revoked.

(e) It shall be unlawful for any person to violate the terms of the permit or to deviate from the plan submitted in the application for the permit.

(f) It shall be unlawful for any person or group of persons who have been permitted to conduct an event to remain on the permitted location or facility, after an event, permitted or otherwise, has been terminated pursuant to this section.

Sec. 28-114. - Appeals.

(a) Upon receipt of any decision by the police chief or his designee denying an application, upon revocation of a permit or other ruling pursuant to this division adverse to the applicant, or upon the receipt of a notice indicating that all or a portion of an applicant's security deposit has been retained, an applicant may, within five calendar days, file an appeal of said denial, revocation or adverse ruling, security deposit retention, or call of the letter of credit with the city manager, which appeal shall be in writing and sent to the city manager by certified U.S. mail or hand delivery.

(b) The written appeal must state succinctly the grounds upon which it is asserted that the determination should be modified or reversed and shall be accompanied by copies of the application for permit, the written notice of determination to which appeal is being made, and any other papers relevant to the denial, retention of the security deposit, or call of the letter of credit.

(c) Within seven calendar days of the receipt of a written appeal, the city manager shall set a hearing date. The city manager shall cause notice of the hearing to be served upon the applicant by certified U.S. mail. Such notice shall include the date, time, and location of the hearing.

(d) At the hearing, all parties shall be provided a fair and impartial hearing and shall be allowed to produce any and all evidence concerning the appeal.

(e) Within seven calendar days after the conclusion of the hearing, the city manager shall make a written decision on the appeal, which shall affirm, modify, or reverse the decision being appealed. The notice of the decision shall be sent to the applicant at the address set forth on the application for permit by certified U.S. mail and shall set forth the reasons for the decision.

(f) The decision of the city manager shall be binding on all parties, subject to the right of appeal as provided by O.C.G.A. § 5-4-1 et seq.

Sec. 28-115. - Time allotment.

At or prior to the expiration of the time allotted and permitted for an event, the permitted person shall have completely vacated the permitted location or facility so

as to allow any subsequent permittee to occupy and conduct an event at said location without interference or delay.

Sec. 28-116. - Violations.

Any person who violates this division may be subject to immediate arrest. The imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit issued pursuant to this division.

Sec. 28-117. - Exceptions.

This division shall not apply to any of the following:

- (1) A governmental agency, including its employees or officials, acting within the scope of its functions or conducting official governmental business;
- (2) Uses, activities, or events being conducted on the public properties of the city, or the facilities thereon, that do not have the effect, intent, purpose, or propensity to attract the notice of people who are not a part of such use, activity, or event;
- (3) Events that are sponsored by the city within the scope of its functions;
- (4) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities; and
- (5) Funeral processions.

Sec. 28-118. - Conflict of provisions.

The requirements of this division shall be in addition to those requirements of section 38-7 to the extent that this division applies to parades within the corporate limits of the city. If there is a conflict between the terms of this division and said section 38-7, the terms of this division shall control.

Secs. 28-119—28-150. - Reserved.

DIVISION 3. - PRESENCE AND CONDUCT IN PUBLIC PARKS

Sec. 28-151. - Definitions.

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

Custodian means any person over the age of 18 years who is loco parentis to a juvenile.

Emergency means a sudden unexpected event or occurrence which affects or may affect life, safety or health. (Notice: An emergency under this definition shall not be the same as an emergency under section 1-7(b).)

Guardian means any person other than a parent, who has legal guardianship of a minor.

Minor means any person under the age of 18 years.

Municipal public parks means any park, playground or place to which the general public has access and a right to resort, for business, entertainment, or for other lawful purposes, and which has been either deeded to or dedicated to public use or ownership. Municipal public parks shall also include the sidewalks abutting any park, playground or place described in this definition.

Parent means the natural or adoptive parent of a minor.

Sec. 28-152. - Curfew.

It shall be unlawful for any person to enter, remain, idle, wander, stroll, or play in any municipal public park, either on foot, or in a motor vehicle, or otherwise, in, about, or upon any municipal public park in the city between the hours of 11:00 p.m. and 5:00 a.m., unless the person is on an emergency errand, or for special functions as set forth herein or where the presence of such person is connected with or required by some legitimate employment, trade, profession, or occupation.

Sec. 28-153. - Special functions.

Any person attending a special function for entertainment of any church, school, club, or other organization that requires such person to be in such municipal public park at a later hour than is called for in section 28-152, shall be exempt from the provisions of section 28-152, provided that the church, school, club, or other organization shall register in advance with the chief of police or his designate to have the park open and available at such later hour. The registrant shall state the time the function or entertainment shall end, and the persons who attend the function shall be required to leave the municipal public park no later than the time when the function is ended.

Sec. 28-154. - Procedure for violations.

(a) Any police officer, upon finding a person in violation of section 28-152, shall ascertain the name and address of such person, and warn the person that he is in violation of this division and shall direct the person to proceed at once to leave the municipal public park. The police officer shall report such action to the chief of the police department. (b) If such person refuses to leave the park in response to such warning or direction by any police officer, or refuses to give such police officer his

correct name and address, or if the person has been warned on a previous occasion that he is in violation of this division, he shall be subject to arrest except that a minor shall be taken to the police department and the parent, guardian, or other adult person having the care and custody of such person shall be notified to come and take charge of the minor. If the parent, guardian, or other adult person referred to in this subsection cannot be located, or fails to come and take charge of the person, the person shall be released to the juvenile authorities.

Sec. 28-155. - Signs stating park hours to be posted.

Signs stating park hours shall be posted prominently in each park.

Secs. 28-156—28-178. - Reserved.