

**ORDINANCE NO. 2012-07-24-002**

**AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, REGULATING FAIRS, CIRCUSES, CARNIVALS, TENT SHOWS, PUBLIC EXHIBITIONS AND SIMILAR PUBLIC GATHERINGS; REQUIRING A PERMIT; PROVIDING EXCEPTIONS; ESTABLISHING FEES AND PENALTIES; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the City Council of the City of Kempner, Texas (the "City") finds that it is reasonable and necessary for the public health, safety, and welfare, to regulate fairs, circuses, carnivals, tent shows, public exhibitions, and similar public gatherings;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS, THAT:**

**Section 1. Findings.** All of the above and foregoing recitals are found to be true and correct and made a part of this ordinance for all purposes.

**Section 2. Permit Required; Exemptions.** It shall be unlawful for any person, group, or organization to hold a fair, circus, carnival, tent show, public exhibition, or the like without first obtaining a permit from the City. This section shall not apply to funeral processions, parades, and school functions such as pep rallies, fundraisers, marching bands, etc., provided such conduct is under the immediate direction and supervision of appropriate school authorities or a government agency.

**Section 3. Application Procedure; Payment of Fee.**

(a) Any person desiring to hold a fair, circus, carnival, tent show, public exhibition or similar public gathering within the City shall file a written application with the City Secretary at least ten (10) days prior to the date such fair, circus, carnival, tent show, public exhibition, or similar public gathering is to be conducted.

(b) The applicant shall use an application form furnished by the City and shall set forth the following information:

- (1) The name, address, and telephone number of the person, sponsor, group, or organization desiring the permit;
- (2) The name, address, and telephone number of the person who will be responsible for the conduct of the event;
- (3) The proposed date(s) and times the event is to be held;
- (4) The proposed location of the event;
- (5) The name, address, and telephone number of the owner of the property upon which the event is proposed to be held, if different from number (1)

above, and proof that the property owner consents to the event being held at the proposed location;

(6) A description of the proposed event;

(7) Measures taken to address adequate parking, restrooms, trash disposal, and traffic control;

(8) Proof of commercial general liability insurance that will be in effect during the event, written by a company licensed to do business in Texas, with a combined single limit of not less than \$1,000,000, to cover any incidents, injuries, or occurrence related to the event; (Proof may take the form of certificates of insurance demonstrating compliance with this subsection. The permit holder must ensure that such insurance coverage remains in effect during the event, and shall notify the City if such insurance coverage lapses prior to the end of the event.)

(9) Any additional information which the City may deem pertinent regarding issuance of the permit.

(c) The applicant shall pay the City a permit fee of \$200.00, when submitting a complete application, before the City shall consider the application. Only complete applications will be considered. This fee shall be nonrefundable regardless of whether the permit is granted or denied.

#### **Section 4. Consideration of Application**

(a) Upon the applicant's filing of an application for a permit for a fair, circus, carnival, tent show, public exhibition or similar public gathering, the Chief of Police shall cause or make an investigation to determine whether or not the proposed event is in conflict with any laws or ordinances and not detrimental to the public health, safety, and welfare. When reviewing the permit application, the Chief of Police shall consider the following concerns, and any other information as may otherwise be obtained, before approving any permit.

(1) Whether the proposed event will substantially interrupt the safe and orderly movement of traffic, both vehicular and pedestrian;

(2) Whether the proposed event will require the diversion of so great a number of police officers of the City to properly police the event that customary protection to the City will not be available;

(3) Whether the concentration of persons, animals, and vehicles will unduly interfere with proper fire and ambulance service to all portions of the City;

(4) Whether the conduct of the event is reasonably likely to cause injury to persons or property or to provoke disorderly conduct or create a disturbance;

(5) Whether the event is for a meaningful purpose and is of sufficient interest to the general public to justify any inconvenience it may cause;

(6) Whether the event has been planned to ensure that the general safety, health, and welfare of all persons is provided as is reasonably possible.

(b) The Chief of Police shall consult with City officials and/or staff that the Chief of Police deems to have an interest in or information regarding the desirability of issuing a permit under the terms of this division.

**Section 5. Approval or Denial; Appeals.**

(a) After completion of his or her investigation, the Chief of Police shall make a recommendation to the Mayor regarding approval of the permit. The Mayor shall then approve or disapprove the permit. If approved, the Chief of Police may issue a permit to the applicant. If disapproved, the Chief of Police shall notify the applicant of the City's decision.

(b) To appeal the disapproval of the permit application, the applicant must pay an appeal fee in the amount of \$50.00, to the City Secretary and request a hearing before the City Council within ten (10) days of receiving notice of the City's application disapproval. After the applicant has paid the City the required appeal fee and requested a hearing, the City Secretary shall schedule a City Council hearing regarding the appeal.

(c) The City Council may approve the Mayor's decision to deny the permit application or overrule the Mayor's decision and grant the applicant's permit. If the City Council approves the application for a permit, the City Secretary shall issue a permit to the applicant. The Council's decision regarding the permit shall be final.

**Section 6. Compliance with Permit Conditions and Other Regulations.** It shall be unlawful for any person participating in any event for whom a permit under this division has been issued to fail to comply with all directions and conditions of the permit and all applicable laws and ordinances, including but not limited to the noise ordinance.

**Section 7. Revocation of Permit.** The Chief of Police may revoke a permit for failure to comply with the directions and conditions of the permit or this ordinance. The Chief of Police shall give written notice of revocation to the permit holder and the reason for revocation, and the permit holder must cease holding the event at the end of the day upon which the permit holder receives the notice of revocation. The permit holder may appeal the Chief of Police's decision to the Mayor, in writing, within 72 hours of receiving the revocation notice. The Mayor may uphold or overturn the Chief of Police's decision. The permit holder may appeal the Mayor's decision pursuant to Section 5(a) and (b). The City Council's decision is final.

**Section 8. Penalty.** Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a

separate offense. Proof of a culpable mental state shall not be required to establish a violation of this ordinance.

**Section 9. Effective Date.** This ordinance shall be in full force and effect ten (10) days after publication in a manner authorized by the Tex. Local Gov't. Code.

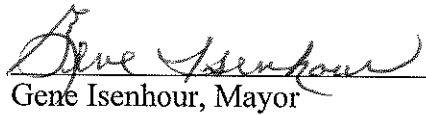
**Section 10. Open Meetings.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Tex. Gov't Code.

**PASSED AND APPROVED this the 24<sup>th</sup> day of July, 2012.**

**ATTEST:**

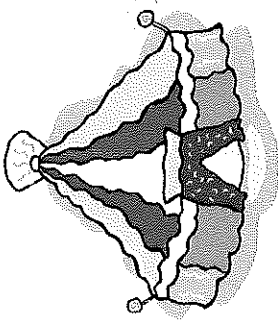
**City of Kempner**

  
\_\_\_\_\_  
Frances Spinney, City Secretary

  
\_\_\_\_\_  
Gene Isenhour, Mayor



# CITY OF KEMPNER



## APPLICATION FOR FAIR, CIRCUS, PUBLIC EXHIBITION/GATHERING

RESPONSIBLE PARTY'S NAME \_\_\_\_\_ PHONE NUMBER \_\_\_\_\_

ADDRESS OF RESPONSIBLE PARTY: \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SPONSOR/GROUP/ORGANIZATION NAME (IF ANY) \_\_\_\_\_

ADDRESS \_\_\_\_\_ PHONE NUMBER \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PROPOSED DATE(S) FOR EVENT \_\_\_\_\_ PROPOSED TIME: From \_\_\_\_\_ to \_\_\_\_\_

PROPOSED LOCATION OF EVENT \_\_\_\_\_

PROPERTY OWNER \_\_\_\_\_ PHONE NUMBER \_\_\_\_\_

ADDRESS OF OWNER (IF DIFFERENT FROM EVENT LOCATION) \_\_\_\_\_

DESCRIPTION OF EVENT \_\_\_\_\_

**DESCRIBE MEASURES FOR ADEQUATE PARKING, RESTROOMS, TRASH DISPOSAL AND TRAFFIC CONTROL:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Present application to City Secretary with proof of commercial liability insurance with permit fee per Ordinance 2012-07-24-002