

ORDINANCE NO. 999

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) OF THE LANCASTER MUNICIPAL CODE BY ADOPTING CHAPTER 9.46 (CARNIVALS AND OTHER OUTDOOR ENTERTAINMENT EVENTS), AND AMENDING SECTIONS 17.08.050, 17.10.050, 17.12.070, 17.16.060, AND 17.20.340, RELATING TO THE REGULATION OF CARNIVALS AND OTHER TEMPORARY OUTDOOR ENTERTAINMENT EVENTS

WHEREAS, the City Council of the City of Lancaster finds and declares its commitment to protect the health, safety and general welfare of the citizens of the City of Lancaster; and

WHEREAS, the City Council further finds and declares that carnivals and other temporary outdoor events in the City are often improperly operated; and

WHEREAS, the City Council further finds and declares that carnivals and other temporary outdoor events often result in excessive noise, dust, traffic problems and other issues that are detrimental to the health, safety and general welfare of the citizens of the City of Lancaster; and

WHEREAS, the City Council believes that an effective way to sustain and protect the health, safety and welfare of the citizens of the City of Lancaster is to adopt regulations limiting the operation and location of carnivals and other outdoor entertainment events in the City of Lancaster, and by authorizing the abatement of unlawful carnivals by law enforcement personnel;

THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council of the City of Lancaster hereby finds and determines that the above recitals are true and correct.

SECTION 2. Chapter 9.46 of the Lancaster Municipal Code is hereby added as follows:

9.46.010 Title. This chapter shall be known as the City of Lancaster's Carnival ordinance.

9.46.020 Findings and Purpose. The City Council finds and declares as follows:

A. Carnivals and other temporary entertainment events held outdoors or in temporary structures may result in noise, dust, traffic problems and other issues that have a detrimental effect on public health, safety and general welfare.

B. It is the purpose and intent of this chapter to mitigate the detrimental effect of carnivals by limiting the operation and location of carnivals and other temporary outdoor entertainment events, and by authorizing the immediate abatement of unlawful carnivals by law enforcement personnel.

9.46.030 Definitions.

A. “Carnival,” for purposes of this chapter, means an event open to the public, including a circus or festival, that offers entertainment rides, midway attractions, games of skill, food booths, animal acts, performances, exhibits, concessions and similar activities.

i. For purposes of this chapter, “carnival” also means and includes temporary educational, spiritual, motivational or entertainment events involving the large assemblage of people within a tent or other temporary structure or in the open air.

ii. For purposes of this chapter, “carnival” does not include a pumpkin patch, Christmas tree lot or other seasonal event or promotional sales/display event that may have incidental rides, food booths or concession stands that are accessory to the main purpose of the event.

B. “City” means the City of Lancaster.

C. “Code” means the Lancaster Municipal Code, and laws incorporated therein by reference, as well as any adopted and uncodified ordinances.

D. “Director” means the Lancaster planning director and/or his or her authorized designee(s).

E. “Owner” means and includes any person having legal title to any real property in the City, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor’s Office. Owner also includes any person with powers of attorney, or who is an executor of an estate, trustee, or court appointed administrator, conservator, guardian or receiver.

F. “Person,” for purposes of this chapter, means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization or entity, however formed, as well as trustees, heirs, executors, administrators, assigns and any public entity or agency that acts as an owner in the City.

G. “Responsible Person” means any person, whether an owner as defined in this chapter, or a person who leases, rents, occupies or has charge, control or possession of property in the City. The actions or inactions of a responsible person’s agent, employee, representative or contractor may be attributed to that responsible person.

9.46.040 Carnivals Prohibited; Exemptions.

A. It is unlawful for any owner or other responsible person to conduct, manage, carry on or operate a carnival in the City, or to directly or indirectly allow, maintain, suffer or permit the operation of a carnival on his or her property.

B. The prohibition against carnivals does not apply to the following:

1. A carnival, as defined herein, that is sponsored, co-sponsored and/or operated, in whole or in part, by the City or any City-affiliated Authority, Foundation or other City-affiliated entity or organization.

2. A carnival that is conducted on property owned by the City or any affiliated Authority, Foundation or other City-affiliated entity or organization, subject to director's review and approval pursuant to chapter 17.32 of this code.

3. A carnival that is conducted on the premises of the Antelope Valley Fairgrounds.

4. A carnival that is conducted by a public or private elementary or secondary school or community college when held on the school's premises, subject to director's review and approval pursuant to chapter 17.32 of this code. The school is solely responsible for taking all steps necessary to ensure the safety and security of carnival patrons. The City assumes no liability or responsibility for any damage or injury to persons or property that may result from the carnival.

5. A carnival that is conducted by a religious institution when held on the institution's premises, subject to director's review and approval pursuant to chapter 17.32 of this code. The institution is solely responsible for taking all steps necessary to ensure the safety and security of carnival patrons. The City assumes no liability or responsibility for any damage or injury to persons or property that may result from the carnival.

6. A carnival that is conducted by a person who has applied for, and been granted, a special exemption by the Planning Commission, in accordance with section 9.46.050 of this chapter.

9.46.050 Appeal to Planning Commission for Exemption.

A. Any person who wishes to seek a special exemption from the general prohibition against carnivals may request a noticed public hearing before the Planning Commission by filing an appeal form with the city clerk and paying the requisite fee. Upon receipt of the completed form and fee, the director will give notice of the hearing in accordance with the procedures set forth in section 17.36.020 of this Code.

B. The decision of the Planning Commission is final and conclusive. Judicial review of the Planning Commission's decision is subject to the time limits set forth in California Code of Civil Procedure, Section 1094.6.

9.46.060 Public Nuisance; Violation; Penalty.

A. The City Council finds and declares that an unlawful carnival constitutes a public nuisance subject to abatement by law enforcement by all reasonable means, including, but not limited to, an order requiring the carnival to be disbanded and the citation and/or arrest of any responsible person under any applicable law.

B. Any person violating the provisions of this chapter is guilty of a misdemeanor.

C. Any person violating the provisions of this chapter is subject to assessment of civil penalties pursuant to chapter 1.16 of this code.

9.46.080 Remedies Not Exclusive.

The abatement of an unlawful carnival or the assessment of civil penalties against a responsible person shall not prejudice or adversely affect any other civil, administrative or criminal action that may be brought to abate an unlawful carnival or to seek compensation for damages suffered. A civil or criminal action may be brought concurrently with any other process regarding the same violation.

9.46.090 Exclusive Regulation.

Notwithstanding any other provisions of the code, carnivals are exclusively regulated pursuant to this chapter.

9.46.100 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 3. Section 17.08.050 of the Lancaster Municipal Code is hereby amended by adding a new category "Carnivals" under Accessory Uses, adding the notation "D" in all zone categories, adding a footnote "1" to "Carnivals," and adding the following at the bottom of the table: "1: Subject to the provisions of Chapter 9.46 of this code."

SECTION 4. Section 17.10.050 of the Lancaster Municipal Code is hereby amended by changing the notation in “Carnivals and circuses” under zone “MU-N” from “N/A” to “D,” adding a footnote “1” to “Carnivals and circuses,” and adding the following at the bottom of the table: “1: Subject to the provisions of Chapter 9.46 of this code.”

SECTION 5. Subsection C of section 17.12.070 of the Lancaster Municipal Code is hereby amended to read as follows:

17.12.070 C. Carnivals, subject to the provisions of chapter 9.46 of this code.

SECTION 6. Subsection A.3 of Section 17.16.060 of the Lancaster Municipal Code is hereby amended to read as follows:

17.16.060 A. 3. Carnivals, subject to the provisions of chapter 9.46 of this code.

SECTION 7. Subsection B of section 17.20.340 of the Lancaster Municipal Code is hereby amended to read as follows:

17.20.340 B. Carnivals, subject to the provisions of chapter 9.46 of this code.

SECTION 8. That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

I, Britt Avrit, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 12th day of August, 2014, and placed upon its second reading and adoption at a regular meeting of the City Council on the ____ day of _____, 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 999, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)