

DOC#
04797

Mass Gatherings and Outdoor Music Festivals Rules & Regulations

State law requires that both “Mass Gatherings” and “Outdoor Music Festivals” in unincorporated areas of the county obtain a permit from Polk County. If an event meets the definitions of both a “Mass Gathering” and an “Outdoor Music Festival”, then both permits will be required.

In order to determine which, permit(s) an applicant needs to obtain for a specific event, the applicant may complete a “Request for Initial Determination or Exemption” form and return to the County Fire Marshal’s Office for determination.

1. Per Texas Health and Safety Code Chapter 751:

Mass gathering is a gathering:

- a. All or any part of which is held in the unincorporated areas of Polk County and outside the limits of a municipality;
- b. That attracts or is expected to attract:
 - i. More than 2,500 persons; or
 - ii. More than 500 persons, if 51 percent or more of those persons may reasonably be expected to be younger than 21 years of age and it is planned or may reasonably be expected that alcoholic beverages will be sold, served, or consumed at or around the gathering; and
- c. At which the persons will remain:
 - i. For more than five continuous hours; or
 - ii. For any amount of time during the period beginning at 10:00 p.m. and ending at 4:00 a.m.

2. Per Texas Occupations Code Chapter 2104:

Outdoor Music Festival means any form of musical entertainment provided by live performances that occurs on two or more consecutive days or on any two days during a three-day period if:

- a. More than 5,000 persons attend any performance;
- b. Any performer or audience member is not within a permanent structure; and
- c. The performance occurs outside the boundaries of a municipality.

Part A: Mass Gatherings Rules and Regulations

The Polk County Mass Gathering Rules and Regulations are hereby established pursuant to the authority of Chapter 751 of the Texas Health and Safety Code (the Texas Mass Gathering Act).

Section One: *Definitions*

For purposes of these Rules and Regulations, the following words shall have the meaning ascribed:

1. *Hearing Examiner*:

the County Judge or the County official whom the County Judge has appointed to hear reports regarding a mass gathering and to make a determination as to whether a permit should be granted or denied.

2. *Mass gathering*:

a gathering:

- i. all or any part of which is held in the unincorporated areas of Polk County and outside the limits of a municipality;
- ii. that attracts or is expected to attract:
 - a. more than 2,500 persons; or
 - b. more than 500 persons, if 51 percent or more of those persons may reasonably be expected to be younger than 21 years of age and it is planned or may reasonably be expected that alcoholic beverages will be sold, served, or consumed at or around the gathering; and
- iii. at which the persons will remain:
 - a. for more than five continuous hours; or
 - b. for any amount of time during the period beginning at 10:00 p.m. and ending at 4:00 a.m.

3. *Person*: an individual, group of individuals, firm, corporation, partnership, or association.

4. *Promote*: to organize, manage, finance, or hold the gathering.

5. *Promoter*: a person who promotes a mass gathering.

Section Two: *Exemptions*

Any mass gathering described in this Section may apply for an exemption by completing and submitting a "Request for Initial Determination or Exemption" form to the Polk County Fire Marshal's Office.

Qualifications for exemptions include:

1. Any mass gathering held at a permanently constructed venue being used for its intended purpose. For example, a football game at a football stadium, spectator or sporting events, and arenas. Venues requiring setting up of tents, restrooms, or stages in order to hold the event may not qualify under this exemption
2. Any mass gathering which, because of the venue, time, or other condition for use of the intended location, the promoter has already been required to obtain authorizations from the Fire Marshal, Sheriff, and the Polk County Permit Department.
3. Any mass gathering approved by a public entity to take place on a publicly-controlled site and for which the promoter has already been required to obtain authorizations from the Fire Marshal, Sheriff, and the Polk County Permit Department.
4. Any mass gathering held on private residential property and not commercial in nature and which will be contained on that property.
5. If a promoter of an event is uncertain as to whether the event that they are promoting is covered under an exemption or not, the promoter may file an application and indicate "Request for Initial Determination or Exemption" on the web form. The County shall review the application and make an initial determination whether the event is exempted from these Mass Gathering Rules and Regulations. The County may revoke its initial determination at any time if it becomes aware of material changes in the plans for the mass gathering. The promoter shall inform the County of any material changes to the plans for the mass gathering.

Section Three: *Permit Required*

A person may not promote a mass gathering without a current, valid permit issued under these Rules and Regulations and the Texas Mass Gathering Act. A person who does so without a current, valid permit, commits an offense.

An offense under this Section is a misdemeanor punishable by a fine of not more than \$1,000, confinement in the Polk County jail for not more than 90 days, or both. Each day of the violation is a separate offense. Any law enforcement agency with jurisdiction over the location of the event shall have enforcement power under this Section.

A permit issued under these Rules and Regulations is valid for one mass gathering event. Permits will not be issued for multiple events.

In addition to the permit requirements detailed herein, the county may require a contract from the promoter to include certain provisions, including liability insurance coverage.

These Rules and Regulations apply in addition to any and all other permit requirements of Polk County, and rules, laws and regulations of the State of Texas.

Section Four: *Application Procedure*

At least 45 days before the date on which a mass gathering will be held, the promoter shall file a permit application with the County Fire Marshal's Office. A permit application will not be accepted later than 45 days prior to the event. **A promoter may not promote an event without a permit.**

The application shall include at least the following information:

1. the promoter's full name and addresses (physical and mailing), and copy of State Identification;
2. a financial statement that reflects the funds being supplied to finance the mass gathering and each person supplying the funds;
3. the full name and addresses (physical and mailing) of the owner of the property on which the mass gathering will be held;
4. a certified copy of the agreement between the promoter and the property owner(s);
5. the location and a description of the property on which the mass gathering will be held;
6. the dates and times that the mass gathering will be held;
7. the maximum number of persons the promoter will allow to attend the mass gathering and the plan the promoter intends to use to limit attendance to that number;
8. the name and contact information for each performer who has agreed to appear at the mass gathering and the name and address of each performer's agent;
9. a description of each agreement between the promoter and a performer;
10. a description of each step the promoter has taken to ensure that minimum standards of sanitation and health will be maintained during the mass gathering, including a copy of all agreements with sanitation provider(s);
11. a description of all preparations being made to provide traffic control, to ensure that the mass gathering will be conducted in an orderly manner, and to protect the physical safety of the persons who attend the mass gathering, including a copy of all agreements with traffic control agency(ies);
12. a description of the preparations made to provide adequate medical and nursing care, including a copy of all agreements with medical service provider(s); and
13. a description of the preparations made to supervise minors who may attend the mass gathering and insure that they are not able to obtain alcohol, including a copy of all agreements with appropriate security agency(ies).

Section Five: *Investigation*

After a permit application is filed, the Fire Marshal's Office shall send a copy of the application to the Polk County Permit Department, the Polk County Sheriff, the Polk County Emergency Management Coordinator, the Hearing Examiner, and the County Judge (if different from the Hearing Examiner).

The Polk County Permit Department shall investigate preparations for the mass gathering and whether the preparations in place would comply with the Minimum Standards for Health and Sanitation for Mass Gatherings, which are attached to this document and incorporated herein for all purposes. At least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Permit Department shall submit to the Hearing Examiner a report stating whether the Polk County Permit Department believes that the minimum standards of health and sanitation prescribed by state and local laws, rules and orders will be maintained.

The Polk County Fire Marshal shall investigate preparations for the mass gathering. At least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Fire Marshal shall submit to the Hearing Examiner a report stating whether the Polk County Fire Marshal believes that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders will be maintained. This may include the submission of additional information, including a site-plan for the event. The County Fire Marshal is authorized to place a Fire Safety Coordinating Officer at a Command and Control Point for the Event, as well as require additional fire safety personnel as the authority having jurisdiction.

The Polk County Sheriff shall investigate preparations for the mass gathering and whether the preparations in place would comply with the Minimum Standards for Public Safety for Mass Gatherings. At least five days before the date on which the hearing prescribed in Section Six is held, the sheriff shall submit to the Hearing Examiner a report stating whether the sheriff believes that the minimum standards for ensuring public safety and order that are prescribed by state and local laws, rules, and orders will be maintained. The County Sheriff is authorized to place a Security Coordinating Officer at a Command and Control Point for the Event, as well as required additional law enforcement personnel as the authority having jurisdiction.

Upon request from the Hearing Examiner, the Polk County Emergency Management Coordinator shall investigate preparations for the mass gathering. If requested, at least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Emergency Management Coordinator shall submit to the Hearing Examiner a report stating whether the Polk County Emergency Management Coordinator believes that the minimum standards for ensuring public safety and order as prescribed by state and local laws, rules, and orders will be maintained. The Emergency Management Coordinator is authorized to place a Medical Coordinating Officer at a Command and Control Point for the Event, as well as require additional County EMS Personnel as the authority having jurisdiction.

Each Mass Gathering Event shall be required to establish a Command and Control Point for coordination of the event. The promoter or other person authorized by the promoter to manage the event shall be present and available to coordinate with the Sheriff's Office, Emergency Services and EMS, Fire Marshal's Office, and the Polk County Permit Department.

The Hearing Examiner may conduct or request any additional investigation that the Hearing Examiner considers necessary.

The Polk County Permit Department, the Polk County Fire Marshal, the Polk County Sheriff, and, if requested by the Hearing Examiner, the Polk County Emergency Management Coordinator shall be available at the hearing prescribed by Section Six to give testimony on their reports.

Section Six: *Hearing*

In no event later than the 10th day before the date on which a mass gathering will begin, the Hearing Examiner shall hold a hearing on the application. The Hearing Examiner shall set the date, location and time of the hearing.

Notice of the time and place of the hearing shall be filed with the County Clerk and posted on the County website, given to the promoter and to each known person who has an interest in whether the permit is granted or denied.

At the hearing, any person may appear and testify for or against the permit.

At the hearing, the Hearing Examiner may request information from any other department or organization with knowledge or experience related to the mass gathering.

Section Seven: *Timeline*

At least 45 days prior to the proposed event an application must be submitted to the Polk County Fire Marshal's Office. A Hearing to approve or deny the permit will be scheduled within 45 days of receiving the application, and at least ten days prior to the scheduled event. **The Promoter may not promote the event until a Permit has been issued**, and should provide sufficient time for the investigation and hearing process to occur.

Upon receiving the permit application, the Fire Marshal will immediately notify the Hearing Examiner, Permit Department, Sheriff's Office, and Office of Emergency Management. Within thirty days of receiving the application, the Permit Department, the Fire Marshal, and the Sheriff's Office will investigate the mass gathering and submit a report to the Hearing Examiner. At the request of the Hearing Examiner, the Emergency Management Coordinator shall also investigate and submit a report within this same time frame.

The Permit Department, the Fire Marshal, the Sheriff's Office, or the Emergency Management Coordinator may request additional time to complete their investigation from the Hearing Examiner in 5-day increments if there are at least ten days until the date of the Hearing.

Section Eight: *Findings and Decision*

After the completion of the hearing prescribed by Section Six, the Hearing Examiner shall enter his/her findings in the record and shall either grant or deny the permit.

The Hearing Examiner may deny or revoke the permit upon a finding of any of the following grounds:

1. The application contains false or misleading information or omits required information;
2. The promoter's financial backing is insufficient to ensure that the mass gathering will be conducted in the manner stated in the application;
3. The location selected for the mass gathering is inadequate for the purpose for which it will be used;
4. The promoter has not made adequate preparations to limit the number of persons attending the mass gathering
5. The promoter has not provided for adequate supervision for minors attending the mass gathering;
6. The promoter does not have assurance that scheduled performers will appear;
7. The preparations for the mass gathering do not ensure that minimum standards of sanitation and health will be maintained;
8. The preparations for the mass gathering do not ensure that the mass gathering will be conducted in an orderly manner and that the physical safety of persons attending will be protected;
9. Adequate arrangements for traffic control have not been provided; or
10. Adequate medical and nursing care will not be available.

Section Nine: *Permit Revocation*

The Hearing Examiner may revoke a permit issued under Section Eight if the Hearing Examiner finds that preparations for the mass gathering will not be completed by the time the mass gathering will begin, on any grounds listed in Section Eight, Subsection 2, or that the permit was obtained by fraud or misrepresentation.

The Hearing Examiner must give notice to the promoter that the permit will be revoked at least 24 hours before the revocation takes effect. If requested by the promoter, the Hearing Examiner shall hold a hearing on the revocation.

If the Hearing Examiner revokes a permit upon a finding of one of the above grounds, the promoter shall have five business days to cure the deficiency. If the deficiency has been cured, as determined by the Hearing Examiner, then the permit shall be reissued.

Section Ten: *Appeal*

A promoter or a person affected by the granting, denying, or revoking of a permit may appeal final action to a district court having jurisdiction in Polk County.

Section Eleven: *Inspections*

The Polk County Permit Department may inspect a mass gathering during the event to ensure that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders are being maintained. If the Polk County Permit Department determines a violation of the minimum standards is occurring or is likely to occur, the Polk County Permit Department may order the promoter of the mass gathering to correct the violation.

The Polk County Fire Marshal may inspect a mass gathering during the event to ensure that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders are being maintained. If the Polk County Fire Marshal determines a violation of the minimum standards for fire protection and safety is occurring or likely to occur, the Fire Marshal may order the promoter of the mass gathering to correct the violation.

The Polk County Sheriff's Office may inspect a mass gathering during the event to ensure that the minimum standards for ensuring public safety are being maintained. If the Polk County Sheriff determines a violation of the minimum standards is occurring or is likely to occur, the Polk County Sheriff may order the promoter of the mass gathering to correct the violation.

The Polk County Sheriff's Office or the Polk County Fire Marshal's Office may stop an event and/or halt attendance of the event if attendance exceeds capacity, the permit application contains false information, a provision of the permit was not adhered to by the promoter, or conditions at the event become unsafe. The County may require information from the promoter regarding pre-sales for the event in order to verify this information.

A promoter or person designated to manage or work at the mass gathering shall not prohibit, impede, or delay an employee of the Polk County Permit Department, Polk County Fire Marshal's Office, Polk County Sheriff's Office, or Polk County Emergency Management Coordinator from accessing the event to conduct inspections or respond to emergencies.

A promoter who fails to comply with an order issued under this section commits an offense. An offense under this section is a Class C misdemeanor. Any law enforcement agency with jurisdiction over the location where the event is held shall have citation power under this Section.

Section Twelve: *Fees*

An application for a permit to promote a mass gathering must be accompanied by payment of the minimum inspection fee in the amount set out herein.

Special events that require more extensive review from the Fire Marshal, the Sheriff, or the Polk County Permit Department may be assessed a reasonable surcharge to compensate for the additional time spent inspecting the event. Applicants will be informed of any surcharges via an invoice sent through the electronic permitting system. The surcharge must be paid before the permit will be issued.

All fees relating to the issuance of a Mass Gathering Permit shall be determined by Commissioners' Court and incorporated into these Mass Gathering Rules and Regulations. These fees shall remain in effect from the effective date hereof until changed by Commissioners' Court. Fees may be changed at any time and from time-to-time by Commissioners' Court, as it deems appropriate. The fees shall be approved or amended by Commissioners' Court in the manner authorized by law for the taking of official action by a political subdivision. Any changes shall be effective for events in which the application is filed after the date of the change.

The minimum fee for the health inspection, fire marshal inspection and sheriff's inspection must be paid at the time of the filing of the application. Special events that require more extensive review from the Fire Marshal, the Sheriff, or the Permit Department may be assessed additional inspection fees to compensate for the additional time spent inspecting the event.

\$300.00 for Mass Gathering.

*Additional inspection fees per existing fee schedules adopted by Commissioners Court.

All payments of fees shall be non-refundable; payments must be made by cashier's check or money order payable to Polk County, Texas.

Section Thirteen: *Effect of Other Laws*

It is not intended, and no provision herein should be construed, to contravene any applicable law or to pre-empt any federal statute. To the extent any part or any provision in these Rules and Regulations might otherwise be construed as invalid, illegal, or unenforceable in any respect, it should be construed as being limited in its scope and applicable to only those circumstances to which it can legally apply. To the extent that any provision or part hereof is found to be invalid, illegal or unenforceable in any respect, it shall not affect any other provision. A Mass Gathering Permit is obtained in addition to any other permits that may be required under any local, state or federal law.

Section Fourteen: *Effective Date*

These Rules and Regulations, with approval of Polk County Commissioners' Court, shall become effective on May 16, 2023. Consequently, on and after May 16, 2023 a promoter of a mass gathering shall be subject to the provisions herein.

Section Fifteen: *Communications and County Contact*

Questions concerning these rules may be submitted to the Polk County Fire Marshal's Office:

Email: firemarshal@co.polk.tx.us
Address: 602 E Church St. Ste. 166
Livingston, TX 77351
Phone: 936-327-6826

Section Sixteen: *Material Changes in Plans*

If after a permit has been granted, a material change in the plans for the mass gathering has occurred, the promoter shall notify the Hearing Examiner so that the Hearing Examiner may determine whether the permit shall be revoked or not.

If Polk County becomes aware of road construction in the vicinity of the mass gathering that may affect the mass gathering, Polk County will make every effort to notify the Promoter so that accommodations may be made. Polk County reserves the right to revoke a Permit for a mass gathering because of unexpected road construction if the unexpected road construction causes there to be inadequate parking or traffic control. Every effort will be made to avoid revoking a permit based on unexpected road construction.

Part B: Outdoor Music Festivals Rules and Regulations

The Polk County Outdoor Music Festivals Rules and Regulations are hereby established pursuant to the authority of Chapter 2104 of the Texas Occupations Code.

Section One: *Definitions*

For purposes of these Rules and Regulations, the following words shall have the meaning ascribed:

1. *Live Performances:*

any form of musical entertainment, including the playing of recorded music or "DJs".

2. *Outdoor Music Festival:*

any form of musical entertainment provided by live performances that occurs on two or more consecutive days or on any two days during a three-day period if:

- a. More than 5,000 persons attend any performance;
- b. Any performer or audience member is not within a permanent structure; and
- c. The performance occurs outside the boundaries of a municipality.

3. *Promoter:*

a person who attempts to organize or promote an outdoor music festival, or to solicit funds for the organization or promotion of an outdoor music festival.

Section Two: *Permit Required*

Pursuant to Texas Occupations Code Sec. 2104.151, **a person may not promote an outdoor music festival without first registering as a promoter with the County Clerk of the County in which the festival is to be held. A person may not direct, control, or participate in the direction or control of an outdoor music festival unless the festival is authorized by a permit issued under Texas Occupations Code Chapter 2104.**

An offense under this Section is a misdemeanor punishable by a fine of not more than \$1,000, confinement in the Polk County jail for not more than 30 days, or both. Each day of the violation is a separate offense. Any law enforcement agency with jurisdiction over the location of the event shall have citation power under this Section.

A permit issued under these Rules and Regulations is valid for one outdoor music festival event. Permits will not be issued for multiple events. These Rules and Regulations apply in addition to any and all other permit requirements, codes, laws or regulations of Polk County and the State of Texas.

In addition to the permit requirements detailed herein, the county may require a bond and/or contract from the promoter to include certain provisions, including liability insurance coverage, and fines and/or penalties.

Section Three: *Registration Procedure*

A promoter shall register with the Polk County Clerk prior to submitting a permit application.

The registration must include:

1. the name and address of:
 - i. the promoter; and
 - ii. each of the promoter's associates or employees assisting in the promotion of the festival; and
2. a statement indicating whether the promoter, or an associate or employee of the promoter, has been convicted of a crime involving the misappropriation of funds, theft, burglary, or robbery.

The promoter must submit a \$5 registration fee with the registration.

The registration must be verified by the promoter and be based on the promoter's best information and belief.

Section Four: *Application Procedure*

At least 60 days before the date on which an outdoor music festival will be held, the promoter shall file a permit application with the Polk County Fire Marshal's Office. A permit application will not be accepted later than 60 days prior to the event.

The application shall include at least the following information:

1. the full name and address (physical and mailing) of:
 - i. the promoter; and
 - ii. each of the promoter's associates or employees assisting in the promotion of the festival; and
 - iii. the owner(s) of the property on which the festival will be held;
2. a financial statement of the promoter and a statement specifying the sources and amounts of capital being supplied for the festival;
3. a description of the festival location;
4. the name and address of the owner of the festival location;
5. a certified copy of the agreement between the property owner(s) and the promoter to use the festival location;
6. the dates and times of the festival;

7. the maximum number of persons the promoter will allow to attend the festival;
8. a statement describing the promoter's plan to control the number of persons attending the festival;
9. a description of the agreement between the promoter and each performer who is scheduled to appear at the festival; and
10. a complete statement describing the promoter's festival preparations to comply with the minimum standards of sanitation and health prescribed by Chapter 341, Health and Safety Code, including a copy of all agreements with sanitation provider(s).
11. a description of all preparations being made to provide traffic control, to ensure that the festival will be conducted in an orderly manner, and to protect the physical safety of the persons who attend the festival, including a copy of all agreements with traffic control agency(ies);
12. a description of the preparations made to provide adequate medical and nursing care, including a copy of all agreements with medical provider(s);
13. a description of the preparations made to supervise minors who may attend the festival and insure they are not able to obtain alcohol, including a copy of all agreements with appropriate security agency(ies)

The promoter shall submit a fee with the permit application, consistent with the Fee Schedule provided in Section Eleven of these Rules and Regulations.

The permit application must be verified by the promoter and be based on the promoter's best information and belief.

Section Five: *Health Report and Investigation*

After a permit application is filed, the Fire Marshal's Office shall send a copy of the application to the Polk County Permit Department, the Polk County Sheriff, the Polk County Emergency Management Coordinator, and the County Judge.

The Polk County Permit Department shall investigate preparations for the festival and whether the preparations in place would comply with the Minimum Standards for Health and Sanitation for festivals, which are attached to this document and incorporated herein for all purposes. At least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Permit Department shall submit to the Commissioners Court a report stating whether the Polk County Permit Department believes that the minimum standards of health and sanitation prescribed by state and local laws, rules and orders will be maintained. At least two days before the date on which the hearing is held, the Polk County Permit Department shall file a copy of the report with the County Clerk.

The Polk County Fire Marshal shall investigate preparations for the festival. At least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Fire Marshal shall submit to the Commissioners Court a report stating whether the Polk County Fire Marshal believes that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders will be maintained. This may include the submission of additional information, including a site-plan for the event. The County Fire Marshal is authorized to place a Fire Safety Coordinating Officer at a Command and Control Point for the Event, as well as require additional fire safety personnel as the authority having jurisdiction.

The Polk County Sheriff shall investigate preparations for the festival and whether the preparations in place would comply with the Minimum Standards for Public Safety for Festivals. At least five days before the date on which the hearing prescribed in Section Six is held, the sheriff shall submit to the Commissioners Court a report stating whether the sheriff believes that the minimum standards for ensuring public safety and order that are prescribed by state and local laws, rules, and orders will be maintained. The County Sheriff is authorized to place a Security Coordinating Officer at a Command and Control Point for the Event, as well as required additional law enforcement personnel as the authority having jurisdiction.

Upon request from the County Judge, the Polk County Emergency Management Coordinator shall investigate preparations for the festival. If requested, at least five days before the date on which the hearing prescribed in Section Six is held, the Polk County Emergency Management Coordinator shall submit to the Commissioners Court a report stating whether the Polk County Emergency Management Coordinator believes that the minimum standards for ensuring public safety and order as prescribed by state and local laws, rules, and orders will be maintained. The Emergency Management Coordinator is authorized to place a Medical Coordinating Officer at a Command and Control Point for the Event, as well as require additional County EMS Personnel as the authority having jurisdiction.

Each Festival shall be required to establish a Command and Control Point for coordination of the event. The promoter or other person authorized by the promoter to manage the event shall be present and available to coordinate with the Sheriff's Office, Emergency Services and EMS, Fire Marshal's Office, and the Polk County Permit Department.

The Commissioners Court may conduct or request any additional investigation that the Commissioners Court considers necessary.

The Polk County Permit Department, the Polk County Fire Marshal, the Polk County Sheriff, and, if requested by the Commissioners Court, the Polk County Emergency Management Coordinator shall be available at the hearing prescribed by Section Six to give testimony on their reports.

Section Six: *Hearing*

The Commissioner's Court shall set a date and time for a hearing on the permit application.

The hearing must be held:

1. after the 15th day after the date the permit application is filed; and
2. before the 30th day before the date set for the first performance of the outdoor music festival.

A promoter is entitled to at least 10 days' notice before the hearing date.

Any person may appear at the hearing and testify for or against the grant of the permit.

Section Seven: *Timeline*

At least 60 days prior to the proposed festival a promoter must register with the County Clerk's Office and then submit an application to the Polk County Fire Marshal's Office. A Hearing to approve or deny the permit will be scheduled between 15 days of receiving the application and 30 days prior to the music festival. **The Promoter may not promote the festival until they have registered with the County Clerk.** An application must be submitted following registration for a hearing to be scheduled. **A person may not direct, control, or participate in the direction or control of an outdoor music festival unless the festival is authorized by a permit issued under these Regulations.**

Upon receiving the permit application, the Fire Marshal will immediately notify the County Judge, Permit Department, Sheriff's Office, and Office of Emergency Management. Within twenty-one days of receiving the application, the Permit Department, the Fire Marshal, and the Sheriff's Office will investigate the location of the outdoor music festival and submit a report to the Commissioners Court. At the request of the County Judge, the Emergency Management Coordinator shall also investigate and submit a report within this same time frame.

The Permit Department, the Fire Marshal, the Sheriff's Office, or the Emergency Management Coordinator may request additional time to complete their investigation from the County Judge in 5-day increments if there are at least ten days until the date of the Hearing.

Section Eight: *Decision on Permit Application*

The Commissioners Court shall grant a permit application filed under Section 2104.101 unless, by a majority vote, the court finds, from a preponderance of the evidence presented at the hearing, that:

1. the permit application contains false or misleading information;
2. required information is omitted from the application;
3. the promoter does not have sufficient financial backing or stability to:
 - i. carry out the preparations described in the application; or

- ii. ensure the faithful performance of the promoter's agreements;
- 4. the preparations described in the application are insufficient to:
 - i. protect the community or the persons attending the outdoor music festival from health dangers; or
 - ii. avoid a violation of Chapter 341, Health and Safety Code;
- 5. the times of the festival and the festival location create a substantial danger of congestion and disruption of other lawful activities in the immediate vicinity of the festival;
- 6. the preparations described in the application are insufficient to limit the number of persons attending the festival to the maximum number stated in the application; or
- 7. the promoter does not have adequate agreements with performers to ensure with reasonable certainty that persons advertised to perform at the festival will appear.

Section Nine: *Permit Revocation*

At any time before the fifth day before the date of the first performance of the outdoor music festival, the commissioners court may, after reasonable notice to the promoter and a hearing, revoke the permit on a finding, by a majority of the court, that:

- 1. the preparations for the event will not be completed in time for the first performance; and
- 2. the failure to carry out the preparations will result in a serious threat to the health of the community or persons attending the festival.

A permit may not be revoked during the period beginning with the fifth day before the date of the first performance of the festival and ending with the final day of the festival.

Section Ten: *Appeal*

A promoter or a person affected by the granting, denying, or revoking of a permit may appeal final action to a district court having jurisdiction in Polk County.

Section Eleven: *Inspections*

The Polk County Permit Department may inspect an outdoor music festival during the event to ensure that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders are being maintained. If the Polk County Permit Department determines a

violation of the minimum standards is occurring or is likely to occur, The Permits Department may order the promoter of the outdoor music festival to correct the violation.

The Polk County Fire Marshal may inspect an outdoor music festival during the event to ensure that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders are being maintained. If the Polk County Fire Marshal determines a violation of the minimum standards for fire protection and safety is occurring or likely to occur, the Fire Marshal may order the promoter of the outdoor music festival to correct the violation.

The Polk County Sheriff's Office may inspect an outdoor music festival during the event to ensure that the minimum standards for ensuring public safety are being maintained. If the Polk County Sheriff determines a violation of the minimum standards is occurring or is likely to occur, the Polk County Sheriff may order the promoter of the outdoor music festival to correct the violation.

The Polk County Sheriff's Office or the Polk County Fire Marshal's Office may stop an event and/or halt attendance of the event if attendance exceeds capacity, the permit application contains false information, a provision of the permit was not adhered to by the promoter, or conditions at the event become unsafe. The County may require information from the promoter regarding pre-sales for the event in order to verify this information.

A promoter or person designated to manage or work event shall not prohibit, impede, or delay an employee of the Polk County Permit Department, Polk County Fire Marshal's Office, Polk County Sheriff's Office, or Polk County Emergency Management Coordinator from accessing the event to conduct inspections or respond to emergencies.

A promoter who fails to comply with any order issued under this Section commits an offense. An offense under this section is a Class C misdemeanor punishable by a fine of up to \$500.00. Each day of violation is a separate offense. Any law enforcement agency with jurisdiction over the location where the event is held shall have citation power under this Section.

Section Twelve: Fees

An application for a permit to promote a festival must be accompanied by payment of the minimum inspection fee in the amount set out herein.

Special events that require more extensive review from the Fire Marshal, the Sheriff, or the Polk County Permit Department may be assessed a reasonable surcharge to compensate for the additional time spent inspecting the event. Applicants will be informed of any surcharges via an invoice sent through the electronic permitting system. The surcharge must be paid before the permit will be issued.

All fees relating to the issuance of a Festival Permit shall be determined by Commissioners' Court and incorporated into these Outdoor Music Festivals Rules and Regulations. These fees shall remain in effect from the effective date hereof until changed by Commissioners' Court. Fees may be changed at any time and from time-to-time by Commissioners' Court, as it deems appropriate.

The fees shall be approved or amended by Commissioners' Court in the manner authorized by law for the taking of official action by a political subdivision. Any changes shall be effective for events in which the application is filed after the date of the change.

The minimum fee for the health inspection, fire marshal inspection and sheriff's inspection must be paid at the time of the filing of the application. Special events that require more extensive review from the Fire Marshal, the Sheriff, or the Permit Department may be assessed additional inspection fees to compensate for the additional time spent inspecting the event.

\$300.00 for an Outdoor Music Festival.

*Additional inspection fees per existing fee schedules adopted by Commissioners Court.

All payments of fees shall be non-refundable; payments must be made by cashier's check or money order payable to **Polk County, Texas**.

Section Thirteen: *Effect of Other Laws*

It is not intended, and no provision herein should be construed, to contravene any applicable law or to pre-empt any federal statute. To the extent any part or any provision in these Rules and Regulations might otherwise be construed as invalid, illegal, or unenforceable in any respect, it should be construed as being limited in its scope and applicable to only those circumstances to which it can legally apply. To the extent that any provision or part hereof is found to be invalid, illegal or unenforceable in any respect, it shall not affect any other provision. An outdoor music festival permit is obtained in addition to any other permits that may be required under any local, state or federal law.

Section Fourteen: *Effective Date*

These Rules and Regulations, with approval of Polk County Commissioners Court, shall become effective on May 16, 2023. Consequently, on and after May 16, 2023, a promoter of an Outdoor Music Festival shall be subject to the provisions herein.

Section Fifteen: *Communications and County Contact*

Questions concerning these Rules may be submitted to the Polk County Fire Marshal:

Email: firemarshal@co.polk.tx.us

Address: 602 E Church St. Ste. 166
Livingston, TX 77351

Phone: 936-327-6826

Section Sixteen: *Material Changes in Plans*

If after a Permit has been granted, a material change in the plans for the outdoor music festival has occurred, the promoter shall notify the commissioners court so that they may determine whether the Permit shall be revoked or not.

If Polk County becomes aware of road construction in the vicinity of the outdoor music festival that may affect the festival, Polk County will make every effort to notify the Promoter so that accommodations may be made. Polk County reserves the right to revoke a Permit for an outdoor music festival because of unexpected road construction if the unexpected road construction causes there to be inadequate parking or traffic control. Every effort will be made to avoid revoking a permit based on unexpected road construction.

Part C: Forms

1. Request for Initial Determination or Exemption
2. Mass Gathering Permit Application
3. Fire Code Requirements for Temporary Events
4. Promoter Registration (Outdoor Music Festivals)
5. Outdoor Music Festival Permit Application



Request for Initial Determination or Exemption
Mass Gatherings and Outdoor Music Festivals

Event Description

1. Promoter's Name

2. Promoter's Address and other Contact Information:

Telephone: _____

Fax: _____

Email: _____

3. Location of the Property where the Event will be held:

4. Description of the Property where the Event will be held: (barn, open field, stadium, etc.)

5. Date(s) of Event: _____

6. Time of Event: _____

7. Maximum number of persons to be allowed to attend: _____

8. How will attendance be limited? _____

9. Will alcohol be served? _____

10. Will live music be provided? YES, or NO. If so, which day(s): _____

11. Brief Description of the Event? (entertainment, purpose etc.)

12. Security Contact Information

Agency providing Security _____

Contact Name / Phone Number _____

Please return form to the Polk County Fire Marshal's Office *at least* 45 days prior to a Mass Gathering or *at least* 60 days prior to an Outdoor Music Festival.
Email: firemarshal@co.polk.tx.us
Physical: 602 E Church St. Ste. 166 Livingston, TX 77351
Phone: 936-327-6826

Polk County
Mass Gathering and Outdoor Music Festival Permitting
Application Checklist and Coversheet for:

(name of event)

Have you included the following in your application packet?

- Signed and Completed Mass Gathering Application
- Mass Gathering Permit Fee (required upon submittal of application)
- Site Layout, indicating emergency exits, location of management point, medical station, security location, etc.
- Event security plan, including location of security, number of officers, etc.
- Event medical plan, including location of first aid station, number of medical personnel, etc.
- Event communications plan (How will you communicate with internal and external agencies during the event?)
- Signed/Notarized Music Festival Permits from County Clerk's Office (if applicable)

***Please do not staple** together any of the documents in your application packet. Paperclips ok.

I acknowledge and represent that I have received and read the "Mass Gathering and Outdoor Music Festival Rules and Regulations", as approved by Polk County Commissioners Court. I further acknowledge and represent that the information that I have provided in it is true and correct. In addition to these rules and regulations, I also confirm that all state and local laws, rules, and regulations will be followed.

Signed (applicant)

Date: _____

Print Name



MASS GATHERING PERMIT APPLICATION

Polk County Fire Marshal's Office

602 E Church St. Ste. 166 Livingston, TX 77351 Phone: 936-327-6826 936-327-6890

Event Name:

Address or Location of Proposed Event:

Identify the two (2) closest streets to the proposed event location:

Date of Event: *

Anticipated Attendance:

Start Time:

Ending Time:

Total Hours:

Will alcoholic beverages be sold/consumed? Yes No

Is a fireworks/pyrotechnics display proposed for this event? ** Yes No

Event Promoter/Sponsor:

Address:

City, State, Zip Code:

Phone 1:

Phone 2:

Email:

List of Performers:

Performer:

Address:

Agent:

Address:

Performer:

Address:

Agent:

Address:

Performer:

Address:

Agent:

Address:

Performer:

Address:

Agent:

Address:

Property Owner:

Address and Telephone Number:

Will attendance be limited? If so, indicated how.

- * The completed packet, with all required information and paperwork, must be submitted a minimum of 45 days prior to the event.
- ** Fireworks displays are regulated by the Polk County Fire Marshal's Office based on conditions at the time of the event.
- *** All state laws and local rules, regulations, and ordinances must be followed in addition to the stipulations specified in this application.

Per HSC 751 the application must include the below items. Please include and/or describe the information as requested under each item. Attach additional pages if necessary.

Briefly describe the event and what type of activities it will include.

Describe steps to be taken to ensure that minimum standards of sanitation and health will be maintained during the mass gathering.

A description of preparations made to provide traffic control, to ensure that the mass gathering will be conducted in an orderly manner and to protect the physical safety of the persons who attend the mass gathering.

Describe the preparations made to provide adequate medical and nursing care.

Describe the preparations made to supervise minors who may attend the event.

Attach the following documents:

Event Financial Statement

Copy of Agreement between Promoter & Performer

Copy of Agreement between Promoter and Property Owner

Site plan/layout of property showing any special features, entrances, exits, location of medical station, management location, etc.

Promoter's Signature

Date

* Email completed application to firemarshal@co.polk.tx.us

Fire Code Requirements for Temporary Events
Polk County Fire Code/International Fire Code 2018 edition

Name of Proposed Event: _____ Date(s): _____

- All booths with any type of heat-producing or cooking devices must have at least one (1) 2A:10BC rated fire extinguisher with a current inspection tag and pin-seal on it.
- Booths that are frying any food (french fries, funnel cakes, etc.), or using cooking appliances with wood (BBQ pits, etc.) must also have a 'Class K' fire extinguisher within 20 feet of the cooking area. Min. 1.5-gallon rating.
- All vendors who are cooking with charcoal, wood or gas must do so in a safe and responsible manner.
- All booths using a generator, must position it at least (20) feet from any side or the roof of any tent or canopy. Re-fueling must be done at least 20 feet from any heat producing device (including the generator).
- Propane and butane cylinders must be secured to prevent them from being overturned. Tanks must be at least 4 feet from a heat producing device or mounted in an assembly designed to prevent heating of the tank. Line(s) between the tank and the heat producing device must be arranged to prevent thermal or mechanical damage of the line(s).
- All canopies or tents must be fire resistant. Tags stating such rating must be attached to the canopy and legible for inspection.
- Extension cords must be located so as to prevent the public from touching, walking on, or contacting.
- Combustible vegetation must be removed within 30' of the tent.
- Smoking is not allowed inside of tents.

I, _____, will comply with the above-listed fire safety requirements, and require vendors to do the same. I understand that the event is subject to fire-safety inspections before or during the time(s) which it is held.

Applicant Signature: _____

Name (print): _____

Date: _____

*Please include this completed page in the application and email to firemarshal@co.polk.tx.us

Helpful Contact Numbers

Polk County Sheriff

Office: 936-327-6810

Fax: 936-327-6892

Email: dispatch@polkcounty.net

Polk County Fire Marshal

Office: 936-327-6826

Email: firemarshal@co.polk.tx.gov

The Polk County Permit Department

Office: 936-327-6820

Fax: 936-327-6867

Email: permits@co.polk.tx.us

Allegiance Mobile Health

Office: 936-327-0123



Schelana Hock
COUNTY CLERK

Fill out the following by typing or printing in blue or black ink ONLY. If you need additional space, attach the page(s) to the back of the application and note it on that section.

Date of Registration: _____

PROMOTER REGISTRATION

(Registration Fee \$5.00)

Pursuant to Occupational Code § 2104.051, a Promoter shall register with the County Clerk of the County in which the outdoor music festival is to be held.

Promoter's Information: _____

Name:

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

Have you ever been convicted of a crime involving the misappropriation of funds, theft, burglary or robbery? YES NO

If Yes, what crime, county, state and date: _____

Name and address of each of the Promoter's associates or employees assisting in the promotion of the festival:

1. _____
Name:

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: Email Address:

Have you ever been convicted of a crime involving the misappropriation of funds, theft, burglary, or robbery? YES NO

If Yes, what crime, county, state and date: _____

2. _____

Name: _____

Address: City: State: Zip:

Phone Number: Email Address:

Have you ever been convicted of a crime involving the misappropriation of funds, theft, burglary, or robbery? YES NO

If Yes, what crime, county, state and date: _____

3. _____

Name: _____

Address: City: State: Zip:

Phone Number: Email Address:

Have you ever been convicted of a crime involving the misappropriation of funds, theft, burglary, or robbery? YES NO

If Yes, what crime, county, state and date: _____

I solemnly swear (or affirm) that the information I have given in this document is correct and I hereby set my hand this _____ day of _____, 20____.

Promoter's Signature

STATE OF TEXAS
COUNTY OF POLK

This instrument was acknowledged before me by _____.

Given under my hand and seal of office this _____ day of _____, 20____.

SCHELANA HOCK, COUNTY CLERK
POLK COUNTY, TX

By: Deputy

This application is to be filed at the County Clerk's office. DO NOT sign this application until you are in the presence of a County Clerk's office. Upon completion, provide a copy to the Fire Marshal.



Schelana Hock
COUNTY CLERK

Fill out the following by printing or typing in blue or black ink ONLY. If you need additional space attach the page(s) to the back of the application and note it on that section.

Date of Application: _____

FESTIVAL PERMIT APPLICATION

(Permit Application Fee \$5.00)

Pursuant to Occupational Code § 2104.101, a Promoter shall, before the 60th day before the date the Promoter holds an outdoor music festival, file a permit application with the County Clerk of the county in which the festival is to be held.

Promoter's Information: _____

Name:

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

Name and address of each of the Promoter's associates or employees assisting in the promotion of the festival:

1. _____

Name:

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

2. _____

Name:

Address: _____ City: _____ State: Zip: _____

Phone Number: _____ Email Address: _____

3.

Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

Description of the festival location: _____

Owner of the festival location:

Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone Number: _____ Email Address: _____

Statement describing the terms and conditions of the agreement allowing the promoter to use the festival location:

Dates and times of festival operation:

_____ to _____ Start Date End Date
_____ to _____ Start Time End Time

Maximum number of people the promoter will allow to attend the festival: _____

Promoter's plan to control the number of people attending the festival:

Give a description of the agreements between the promoter and each festival performer.

Give a statement describing the promoter's preparations to comply with the minimum standards of sanitation and health prescribed by The Health and Safety Code § 341.

Promoter must attach the following to this Festival Permit Application:

1. Financial Statement
2. Statement specifying the sources and amounts of capital being supplied for the Festival

I solemnly swear (or affirm) that the information I have given in this document and its attachments are correct and I hereby set my hand this _____ day of _____, 20____.

Promoter's Signature

STATE OF TEXAS
COUNTY OF POLK

This instrument was acknowledged before me by _____.

Given under my hand and seal of office this _____ day of _____, 20____.

SHELANA HOCK, COUNTY CLERK
POLK COUNTY

By: Deputy

- **This application is to be filed at the Polk County Clerk's office. DO NOT sign this application until you are in the presence of a County Clerk Deputy.**
- **Upon completion, provide a copy to the Fire Marshal for approval. The Fire Marshal will follow up with the County Clerk's Office regarding the approval of the permit.**
- **The Fire Marshal will forward this application to the Polk County Commissioners' Court and add it to the meeting agenda once it is approved.**
- **The Fire Marshal will notify the promoter of the date of the Commissioners' Court meeting where their permit will be discussed.**
- **The Fire Marshal will send a letter to the promoter with the decision of the Commissioners' Court regarding their permit.**

FILED FOR RECORD
May 19 2023 09:36:05



STATE OF TEXAS • COUNTY OF POLK
I, SCHELANA HOCK hereby certify that the Instrument was FILED
in the file number sequence on the date and at the same time stamped
heron by me and was duly RECORDED in the Official Public Records
in Volume and Page of the named RECORDS OF Polk County, Texas
as stamped heron by me.

Schelana Hock
SCHELANA HOCK
POLK COUNTY CLERK

Schelana Hock
COUNTY CLERK
POLK COUNTY, TEXAS

May 19, 2023