C: Dir., Cultural Facilities

City of NORFOLK

To the Honorable Council
City of Norfolk, Virginia

May 13, 2014

From: John Rhamstine, Director, Cultural Facilities

Subject: Ordinance establishing the "Festival Area" of Harborfest 2014 and setting forth the applicable regulations for the festival

Reviewed: Wynter C. Benda, Assistant City Manager

Ward/Superward: Citywide

Approved: Marcus D. Jones, City Manager

Item Number: **R-10**

I. **Recommendation:** Adopt ordinance

II. **Applicant:** City of Norfolk

III. **Description**

This agenda item is an ordinance to establish the boundaries of the festival area and sets forth the regulations for Harborfest 2014. This will allow Norfolk Festevents, City staff and the Norfolk Police Department to enforce the regulations as necessary. All regulations are written for the purpose of public safety and/or protection of the park itself.

IV. **Analysis**

This ordinance establishes the boundaries of the festival are and sets forth the regulations for the Harborfest 2014 celebration.

V. **Financial Impact**

N/A

VI. **Environmental**

N/A

VII. **Community Outreach/Notification**

N/A

VIII. **Board/Commission Action**

N/A

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N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Cultural Facilities

Supporting Material from the Department of Law:

- Ordinance

Form CCO-003

4/23/14mr
Form and Correctness Approval:

By _____
Office of the City Attorney

Contents Approved:

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ESTABLISHING CERTAIN PUBLIC AREAS AND STREETS OF THE CITY OF NORFOLK AS THE "FESTIVAL AREA" AND SETTING FORTH THE REGULATIONS APPLICABLE TO SUCH FESTIVAL AREA FOR THE NORFOLK HARBORFEST 2014 CELEBRATION.

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WHEREAS, from 12:00 p.m. on Friday June 6, 2014 until 6:00 p.m. on Sunday June 8, 2014, there will be held a public celebration festival known as "Norfolk Harborfest 2014" in certain downtown areas of the City; and

WHEREAS, said festival will take place on certain designated public areas situated in the downtown area of the City, including Town Point Park and certain public streets which are to be closed for the duration of the festival; and

WHEREAS, because of the large numbers of people expected to congregate and participate in said festival, and the traffic congestion which is expected to result, it is deemed necessary to prescribe certain regulations governing the use of the festival area in the interests of public health and safety; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the following described city-owned public areas in the City are hereby designated and established as the "Festival Area" for Norfolk Harborfest 2014 from June 06, 2014 at 12:00 p.m. until

June 08, 2014 at 6:00 p.m. or as extended in accordance with Section 2:

All those certain areas in the City of Norfolk encompassing: Boush Street, south of the southern line of City Hall Avenue; (2) Plume Street, west of the western face of Town Point parking structure; (3) All of Waterside Drive that lies west of the western line of St. Paul's Boulevard; (4) All that certain peninsula of land that is commonly known as Nauticus/ National Maritime Center and the Half Moone Cruise Terminal and their associated structures that lies west of Boush Street; (5) Town Point Park; (6) The Elizabeth River Esplanade from Harbor Park westward and northward along the Elizabeth River to the western terminus at College Place and Botetourt Street; (7) The property commonly known as "Pagoda and Oriental Garden Park" as delineated by the land mass west of Harbour Street extending westwardly to the Elizabeth River including all public areas of Pier "A" and Pier "B"; (8) The exterior public areas of the Waterside Festival Marketplace; (9) The parcels of land known as Parcel "13B-1" and Parcel "13C" immediately south and west of Harbor Place Condominiums and bounded by Brook Avenue, the Elizabeth River and the Elizabeth River Esplanade; (10) The area known as Freemason Green, bounded by College Place, Yarmouth Street, Tazewell Street and College Cross; (11) The temporary docks along the Elizabeth River, east of Waterside Marina and south of the Sheraton Hotel (12) Beginning at the northwestern corner of Waterside Drive and St. Pauls Boulevard; thence westwardly, and northwardly along the northern and eastern right-of-way lines of Waterside Drive, extending across intersecting streets, to the southern line of Main Street; thence along the eastern right-of-way line of Boush Street, extending across intersecting streets, to the southern right-of-way line of City Hall Avenue; thence westwardly along the extension of the southern right-of-way line of City Hall

Avenue, across Boush Street to the east side of the floodwall; thence northwardly along the floodwall to a point on the southern line of the City Hall Canal; thence westwardly along the southern line of the City Hall Canal to the Pierhead Line (Port Wardens Line); thence southeasterly along the Pierhead Line (Port Wardens Line) to the intersection of the western and southern shoreline on the southwest side of Town Point Park; thence southeastwardly along the shore line of the Eastern Branch of the Elizabeth River (including any piers, wharfs, jetties, and bulkheads extending into the Elizabeth River) to the western bulkhead of the Otter Berth; thence northwardly, eastwardly and southwardly along the western, northern and eastern bulkheads of the Otter Berth to the northern shore line of the Eastern Branch of the Elizabeth River; thence eastwardly along the northern shore line of the Eastern Branch of the Elizabeth River (including any piers, wharfs, jetties, and bulkheads extending into the Elizabeth River,) along the southern limits of Town Point Park and the Elizabeth River Esplanade to a point on the shore line opposite the southwest property corner of the Dominion Tower property; thence northwardly to the southwest corner of the Dominion Tower; thence northwestwardly, northwardly and northeastwardly along the property of the Dominion Tower to the southern line of Waterside Drive; thence westwardly across the southern line of Waterside Drive to the western line of St. Pauls Boulevard; thence northwardly along the western line of St. Pauls Boulevard to the point of beginning, excluding therefrom, however, the Waterside Festival Marketplace building and the pedestrian walkway therefrom over Waterside Drive to the Waterside Parking Structure, and the private property of the Sheraton Hotel and the pedestrian walkway therefrom over Waterside Drive, from portal to portal.

Section 2:- That in the event inclement weather necessitates the re-scheduling of the fireworks display to Sunday night, June 08, 2014, the City Manager, or his designee, is authorized to extend the "Norfolk Harborfest 2014" celebration festival to 9:30 p.m. on Sunday, June 08, 2014.

Section 3:- That notwithstanding any other ordinance or provision of law, unless expressly indicated otherwise, and in addition to any other existing ordinances and regulations governing any area encompassed within the Festival Area boundaries, the following regulations shall apply to and will be in force in the Festival Area from June 06, 2014, at 12:00 p.m. to June 08, 2014 at 6:00 p.m., or as extended in accordance with Section 2:

(a) Notwithstanding the provisions of Chapter 26 of the Norfolk City Code (1979, as amended), during the duration of Harborfest 2014, all parties in the "Festival Area" defined in Section 1, above, other than those parties who have contracted with or otherwise been approved by Norfolk Festevents Ltd. to provide entertainment for Norfolk Harborfest 2014, must abide by the decibel levels set out in § 26-10, Table I, Maximum Sound Pressure Levels, for property categorized as "park and recreational" use. Parties who violate this provision will first receive a verbal warning, and if they refuse to cease the unlawful activity, will be charged with violating the noise restriction provisions of Chapter 26.

(b) It shall be unlawful for any person to bring into the Festival Area or possess any alcoholic beverage not purchased in the Festival Area.

(c) It shall be unlawful for any person to bring, carry or possess any of the following weapons, whether or not concealed: any dirk, bowie knife, switchblade knife, razor, slingshot, metal knucks, blackjack, or any flailing instrument consisting of two (2) or more rigid parts connected in such a manner

as to allow them to swing freely, which may be known as a nunchahka, nunchuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two (2) points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind as those enumerated in this section. Any such weapon shall be forfeited to the city and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the division of consolidated laboratory services shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in Section 18.2-310 of the Code of Virginia, 1950, as amended. This section shall not apply to any authorized law enforcement officer.

(d) It shall be unlawful for any person to enter any area posted as "Closed to the Public" or use or encourage the use of any area in violation of posted notices. Any section or part of the Festival Area may be declared closed to the public by the City Manager or his designee at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), and may either be entirely closed or closed to certain uses as the City Manager or his designee shall determine.

(e) It shall be unlawful for any person to carry or possess any glass container of any kind, with the exception of unopened glass containers or glass artwork purchased in the Festival Area from authorized vendors. Concessionaires authorized to vend food or beverages shall be permitted to use glass containers for their own use and shall remove all such containers upon termination of their activities in the Festival Area.

(f) It shall be unlawful for any person to engage in any of the following activities, unless such activity has been specifically authorized by a franchise granted in accordance with the provisions of the City Charter or by a permit to conduct a special event issued in accordance with the provisions of this article:

(1) Display of merchandise.

(2) Sales of flowers, souvenirs or other merchandise.

(3) Any other commercial activity which is not specifically authorized by this article or by a permit duly issued by the City. For purposes of this subsection, busking as permitted by Section 29-70.1 of the Norfolk City Code, 1979, as amended, (created by Ordinance No. 44,226, effective April 26, 2011), shall not be considered a "commercial activity."

(g) It shall be unlawful for any person to construct or erect any building or structure of whatever kind, whether permanent or temporary or run or string any public service utility lines into, upon or across the Festival Area land, unless authorized by a permit duly issued by the appropriate City officials.

(h) It shall be unlawful for any person to willfully mark, deface, disfigure, injure, tamper with, displace or remove any property, including but not limited to any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment,

facilities or property or appurtenances whatsoever, either real or personal.

(i) It shall be unlawful for any person to beg, solicit funds or seek contributions for any purpose, public or private. For purposes of this subsection busking as permitted by Section 29-70.1 of the Norfolk City Code, 1979, as amended shall not be considered begging, soliciting funds or seeking contributions.

(j) It shall be unlawful for any person to climb or ascend any structure, statuary object, planter or tree.

(k) It shall be unlawful for any person to place or operate vending machines or coin-operated amusement devices, with the exception of those located in duly authorized city facilities.

(l) It shall be unlawful for any person to have in his possession or set off or otherwise cause to explode or discharge or burn any firecrackers, torpedo rockets or other fireworks or explosives of inflammable material, or discharge them or throw them into the Festival Area from land, highways, buildings or vessels moored adjacent thereto. This prohibition includes any substance, compound, mixture or article which, when in conjunction with any substance or compound, would be dangerous from any of the foregoing standpoints.

(1) Notwithstanding the provisions of paragraph (l) above, fireworks displays or shows may be authorized in the Festival Area by permit granted by the City Manager or his designee and approved by the Fire Chief.

(m) It shall be unlawful for any person to enter or be upon the premises of the Festival Area while intoxicated, whether such

intoxication results from alcohol, narcotic drug, or other intoxicant or drug of whatever nature. And it shall be unlawful for any person to be in the possession of, consume or use any illegal drug while in the Festival Area.

(n) It shall be unlawful for any person to bring, possess or drink within the Festival Area, any alcoholic beverage of any kind at any time, except as authorized in this ordinance. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars ($100.00).

(o) It shall be unlawful for any person to ride, walk or push a bicycle, except as may be necessary to place such bicycle in a designated bike rack. This section shall not apply to any authorized law enforcement officer or fire/paramedical personnel nor shall it apply to bicycles that are part of a scheduled performance being used for their intended purpose.

(p) It shall be unlawful for any person to roller skate, to ride on a skateboard or to operate any other similar device having metal, plastic or rubber tread wheels, with the exception of such devices that are part of a scheduled performance being used for their intended purpose.

(q) It shall be unlawful for any person to bring any domestic or wild animal into the Festival Area, or to possess or have custody of any domestic or wild animal in the Festival Area, with the exception of service animals or animals that are part of a scheduled performance being used for their intended purpose. No domestic or wild animals shall be permitted in the Festival Area, with the exception of service animals or animals that are part of a scheduled performance being used for their intended purpose. For the purposes

of this ordinance, the term "service animal" shall be defined as "an animal that has been individually trained to perform tasks for people with disabilities, such as a seeing eye dog."

(r) It shall be unlawful for any person to operate or park any motor vehicle, except for the following vehicles and any other vehicles that have been duly authorized by the appropriate City officials:

(1) Fire vehicles, police vehicles, and ambulances responding to emergency calls.

(2) Utility vehicles and building services vehicles engaged in the repair of hazards or the correction of disruptions of essential services.

(3) Self-propelled wheel chairs or invalid tricycles operated by persons whose physical disabilities prohibit normal walking.

(4) Festival Area maintenance vehicles.

(5) Vehicles for display or operated for special events at such times and places as may be authorized by a written permit issued by the City Manager or his designee.

(6) Mini-buses or trackless trains operated by a public transportation agency pursuant to a written permit issued by the City Manager or his designee.

(s) It shall be unlawful for any person to stop, stand or park any vehicle at any time:

(1) In such a manner as to block the passage of any emergency vehicle.

(2) In such a manner as to block pedestrian movement or access to any building or vessel adjacent to the Festival Area.

(3) Unless actively engaged in loading or unloading, maintenance, service or construction, during authorized hours.

(t) It shall be unlawful for any person, except authorized entertainers, to take part in or abet the playing of any games involving thrown or otherwise propelled objects, such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games, such as football, baseball and quoits, is prohibited.

(u) It shall be unlawful for any person to fly or control any type of airborne equipment, including but not limited to model planes (radio and wire controlled), kites and air balloons, except pursuant to permit for such use issued by the City Manager or his designee.

(v) All service animals shall be restrained on a leash at all times. Owners shall comply with the provisions of section 6-67 of the Code of the City of Norfolk, Virginia, 1979, with regard to animal feces.

(w) It shall be unlawful for any person to expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. This prohibition shall not apply to any regularly licensed concessionaire acting by and under the authority and regulation of the

City Council or pursuant to permit issued by the City Manager or his designee.

(x) It shall be unlawful for any person to announce, advertise or call the public attention in any way to any article or service for sale or hire.

(y) It shall be unlawful for any person to paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever in the Festival Area, nor shall any person erect or cause to be erected any sign of whatever nature on any public area adjacent to the Festival Area, without first obtaining proper authorization from the appropriate city officials.

(z) The City Manager or his designee is hereby authorized to issue special event permits for either public or private commercial use of the Festival Area. The City Manager or his designee shall forward to the Commissioner of the Revenue a list of all permits issued so that the applicable Business Professional and Occupational License, food and beverage, and admissions tax ordinances can be appropriately enforced. The list shall contain the following information: (1) name and address of applicant; (2) name and address of sponsor; (3) date and hours requested and use to be made of the Festival Area; (4) location assigned within the Festival Area; (5) any other information received that is used to identify the business or the nature of the business activity. The list shall be forwarded to the Commissioner of the Revenue 21 days prior to the opening day of the festival. Updates will be provided to the Commissioner of the Revenue as they are available.

(1) Such permit may authorize any one or more of the following activities:

(a) The sale of food, beverages and other refreshments.

(b) The sale of goods and merchandise.

(c) The provision of various forms of entertainment, including programs of the performing arts.

(d) The distribution of educational or informational literature and other materials specifically and directly related to a special event by duly authorized festival participants.

(2) A person seeking the issuance of a permit for the use of the Festival Area for such purpose shall file an application with the City Manager or his designee. The application shall state:

(a) The name and address of the applicant.

(b) The name and address of the person sponsoring the activity, if any.

(c) The day and hours for which the permit is desired and the proposed use to be made of the Festival Area.

(d) The portion of the Festival Area for which such permit is desired.

(e) An estimate of the anticipated attendance.

(f) Any other information which the City Manager or his designee shall find reasonably necessary to a fair determination as to whether the permit should be issued.

(3) The City Manager or his designee may require the applicant for a permit under this article to provide or construct any facilities and furnish such materials, equipment or supplies which the City Manager or his designee considers essential to the health, safety and welfare of any person.

(4) The City Manager or his designee shall issue a permit applied for under this article, if he finds:

(a) That the proposed activity or use of the Festival Area will not unreasonably interfere with or detract from the general public's enjoyment of the Festival Area.

(b) That the proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

(c) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

(d) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the city.

(e) That the portion of the Festival Area desired has not been reserved for other use at the date and hour requested in the application.

(5) It shall be unlawful for any person to fail to produce and exhibit any permit issued to him or her under this article, upon request of any authorized person who shall desire to inspect such permit for the purpose of enforcing compliance with any ordinance of the city or regulation of the department.

(6) A person to whom a permit is issued under this ordinance shall be bound by all applicable rules and regulations of the Festival Area and all applicable City ordinances as fully as though the same were inserted in the permit.

(7) A person to whom a permit is issued under this article shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person to whom such permit was issued. The City Manager or his designee may require such public liability insurance, naming the City as an additional insured, as he deems to be in the best interest of the City.

(8) It shall be unlawful for any person to disturb or interfere unreasonably with any person occupying any area, or participating in any activity under the authority of a permit issued under this ordinance.

(9) The City Manager or his designee shall have the authority to revoke a permit issued pursuant to this ordinance, upon a finding of a violation of any

rule, ordinance or condition of the permit, or upon good cause shown.

(aa) The City Manager or his designee is hereby authorized to issue special event permits for noncommercial expressive activities protected by the First Amendment of the United States to occur within Town Point Park and the rest of the Festival Area during Norfolk Harborfest. Such permits shall be subject to the usual time, place and manner considerations as delineated in Section 29-67 of the Norfolk City Code, 1979, as amended, including but not limited to the fact that the Festival Area, including the Park, is usually crowded during Norfolk Harborfest. The requirement of Section 29-67, as amended, shall be followed when considering permit requests under this subsection (aa), except for the following provisions:

(1) The small group exception from the permit requirement under this subsection (aa) shall be for activities involving ten (10) people or less. This same amended small group exception shall apply to busking done pursuant to Section 29-70.1 of the Norfolk City Code, 1979, as amended;

(2) The deadline for applying for a permit under this subsection (aa) shall be no later than ten (10) days before the date of the beginning of Harborfest. In calculating this time period, weekends and holidays and the date of the beginning of Norfolk Harborfest shall not be counted; and

(3) All the general restrictions of this ordinance, not including subsection (z), establishing the Festival Area for Norfolk Harborfest and regulating its use, shall apply to any permit issued pursuant to this subsection (aa).

Section 4:- Nothing contained in this ordinance shall be construed as governing, limiting or preventing the purchase, possession, transfer, ownership, carrying, storage or transporting of firearms, ammunition, or components or combination thereof, except as may be expressly authorized in the Code of Virginia, 1950, as amended.

Section 5:- Any person violating any provision of this ordinance shall be guilty of a Class 1 misdemeanor.

Section 6:- All persons who enter the Festival Area during the period specified above, as a condition of their entry and/or continued presence in the Festival Area, shall be deemed to have consented to an inspection of their belongings, for purposes of enforcement of this ordinance.

Section 7:- That this ordinance shall be in effect from and after its adoption.