



MEMORANDUM

Date: October 12, 2023

To: Honorable Mayor and Commissioners

From: Ronald Ramsingh, City Attorney

Subject: Designation of the Fantasy Zone for Fantasy Fest 2023

Sponsor: Ronald Ramsingh, City Attorney

Introduction

This Resolution is being brought to the City Commission for consideration to set out the boundaries of the Fantasy Zone, pursuant to Sec. 42-9.

Background

On June 21, 2022, the CC passed Resolution 22-147 that ratified a 3-year contract with the TDA to run Fantasy Fest. That 3-year contract does not mention the Fantasy Zone. There was a very lengthy discussion by the City Commission at that meeting establishing the need to have a Fantasy Zone. The prior 5-year contract with the TDA that was approved in Resolution 16-128 established the Fantasy Zone by exhibit. This is the methodology that had been used in prior agreements, which is then tempered by Sec. 42-09 that sets out what one can and cannot do in the Fantasy Zone.

After the current 3-year contract was executed, my predecessor brought a Resolution for the Commission to consider on July 6, 2022 (22-155), at the direction of the City Commission. This was to fill in the gap regarding the Fantasy Zone that was not included in the contract. When I was informed about the desire to dissolve the Fantasy Zone for 2023, I had the same concern. Sec. 42-9 controls and it establishes a Fantasy Zone where females can be topless, so long as their breasts are painted. If that geographical boundary is not spelled out under Sec. 42-9, the City stands to be exposed if someone were to be arrested for nudity for painted breasts- especially in an area that has historically been considered the Fantasy Zone. Additionally, you will recall that at that July

2022 meeting, Chief Brandenburg, Jim Young, and Jason Barroso all urged you to keep the Zone due to enforcement issues.

To be clear, nudity in any form is not permitted anywhere in the city at any time- no matter the time of the year. Pursuant to Sec. 42-9, genitals, the pubic area and buttocks cannot be exposed- *regardless if they are painted or not*. The only consideration that is given, is regarding female breasts in the “Fantasy Zone”. Specifically, under 42-9, body painting will be considered as an exception to clothing in this ordinance, only within the Fantasy Zone as that area is determined by the Commission- and only for certain days of Fantasy Fest. Therefore, under no circumstances can a female be outside of that zone with painted breasts if her breasts are not covered from the top of her nipple, down with an opaque covering (clothes). A pastie in that circumstance that only covers the areola and nipple would not qualify as an exemption to the nudity rule if she were outside of the Zone.

From my perspective, Sec. 42-9 establishes the Fantasy Zone and only the City Commission can set the boundaries of it. In my legal opinion, the Fantasy Zone cannot be eliminated by Resolution or by fiat. It can only be deleted by an ordinance amendment.

I have discussed this Resolution with Nadene Grossman Orr of the TDA and she is in favor of approval.

Procurement

This measure does not have any direct impact on procurement.

Recommendation

I recommend approval of this Resolution to set out the parameters of the Fantasy Zone in advance of the 2023 Fantasy Fest so as to avoid confusion and legal exposure with the public, visitors, and law enforcement - as the City Commission did on July 6, 2022 for last year’s Fantasy Fest.