

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

PATOKA VALLEY AIDS COMMUNITY	)	
ACTION GROUP, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:26-cv-00002-RLY-CSW
	)	
CITY OF LOOGOOTEE, INDIANA,	)	
	)	
Defendant.	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plaintiff Patoka Valley AIDS Community Action Group, Inc. ("Patoka Valley") is an Indiana nonprofit corporation that has sponsored annual Pride festivals in Loogootee, Indiana. Patoka Valley brings a First Amendment challenge to Loogootee ordinances that prohibit special events within 240 feet of the City's Public Square fountain—the site of previous Pride festivals.¹

On April 13, 2026, Patoka Valley filed a motion for preliminary injunction. (Dkt. 20). It also filed a motion to consolidate the preliminary injunction hearing with the trial on the merits under Federal Rule of Civil Procedure 65(a)(2). (*Id.*). Loogootee does not object to consolidation. (Dkt. 24). That motion is therefore **GRANTED**. Both parties also agree that no hearing is necessary because the existing record is sufficient for

¹ Three ordinances govern special events in Loogootee: Ordinance No. 2025-14, Ordinance No. 2026-01, and an unnumbered ordinance that the court refers to as Ordinance No. 2026-____ (enacted in March 2026). Thus, when referring to the current regime in this opinion, the term "ordinances" may be used.

adjudicating the merits. (Dkt. 31). Having considered the parties' submissions, the applicable law, and the evidence of record, the court makes the following findings of fact and conclusions of law consistent with Federal Rule of Civil Procedure 52(a).

I. Findings of Fact

A. Loogootee PrideFest 2023 and the Special Events Ordinance

Defendant Loogootee is a municipality of approximately 2,600 persons. (Dkt. 18 ¶ 8). In 2022, the Loogootee City Council approved an oral request to hold a Pride festival in 2023 in the Public Square, a small grassy area with a fountain framed by Public Square Street, North Line Street, Main Street, and U.S. 231 (also designated as John F. Kennedy Avenue). (Dkt. 33-1 ¶¶ 5–6, 11). At that time, no ordinance governed special events in Loogootee. (*Id.* ¶ 13). Except for U.S. 231, the streets around the Public Square were closed for the festival, which was held on June 10, 2023. (*Id.* ¶¶ 17, 20). The purpose of Loogootee PrideFest 2023 was to celebrate and promote the LGBTQ+ community. (*Id.* ¶¶ 15–16). About 200 people attended the festival, which featured entertainment, food, vendors, and a health fair. (*Id.* ¶¶ 17–21).

Shortly after PrideFest 2023, Patoka Valley received permission to hold Loogootee PrideFest 2024 on September 7, 2024, in the same area as the prior festival. (*Id.* ¶¶ 23–30). But on February 12, 2024, Loogootee enacted Ordinance No. 2024-01, which established a procedure for requesting the use of city property for events and gatherings. (*Id.* ¶ 34). The ordinance also revoked Patoka Valley's permission to hold Loogootee PrideFest 2024. (*Id.* ¶ 36). Patoka Valley quickly applied for a permit under the new ordinance. (*Id.*). For several months, however, Loogootee did not rule on the

application. (*Id.* ¶ 38). Instead, on June 10, 2024, Loogootee adopted Ordinance No. 2024-04, which replaced Ordinance No. 2024-01. (*Id.* ¶¶ 42–44).

B. *Patoka Valley I*

On June 13, 2024, Patoka Valley filed suit, alleging that Ordinance No. 2024-04 facially violated the First Amendment. (*Id.* ¶ 51; *Patoka Valley AIDS Community Action Group, Inc. v. City of Loogootee*, No. 3:24-cv-100 (S.D. Ind.) ("*Patoka Valley I*"). The following month, Loogootee approved Patoka Valley's application for PrideFest 2024 but denied some of the requested street closures. (Dkt. 33-1 ¶¶ 52–53). Approximately 350 people attended the festival on September 7, 2024. (*Id.* ¶ 54).

After PrideFest 2024, Patoka Valley applied for a permit for Loogootee PrideFest 2025 to be held on September 6, 2025, in the Public Square. (*Id.* ¶ 55). Instead of ruling on that request, Loogootee adopted Ordinance No. 2025-01, which amended Ordinance No. 2024-04. (*Id.* ¶ 56). The new ordinance restricted special events to one of two locations: the Green Space and the City Park. (*Id.* ¶ 57). Because this restriction precluded PrideFest 2025 from being held in the Public Square, Patoka Valley sought an injunction. (*Id.*; *Patoka Valley I*, Dkt. 70). The court held that Ordinance No. 2025-1 violated the First Amendment and permanently enjoined Loogootee from enforcing the ordinance in its entirety. The court also ordered Loogootee to allow PrideFest 2025 to take place in the Public Square on September 6, 2025. (Dkt. 33-1 ¶¶ 58–59; *Patoka Valley I*, Dkt. 96).

Immediately after PrideFest 2025, Patoka Valley applied for a permit for Loogootee PrideFest 2026 to be held on September 5, 2026, in the Public Square. (Dkt.

33-1 at 24). As it had in previous years, Loogootee chose to enact a new ordinance instead of acting on the pending permit application. (*Id.* ¶ 62). Loogootee enacted Ordinance 2025-14 on December 29, 2025. (Dkt. 33-2 at 89–96). This new ordinance largely mirrored the ordinance the court previously enjoined. (*Id.*). One notable change was the designation of the areas of the city available for special events. They included:

- i. Loogootee City park[.]
- ii. The Green Space Area located in downtown Loogootee.
- iii. Any other location in the City of Loogootee maybe [sic] considered, with the exception of no location within 240 feet of the center of the town fountain shall be permitted as a location for special events.

(*Id.* at 92–93).

The Green Space Area refers to what is now known as the Loogootee Community Pavilion ("Pavilion"). Loogootee opened the Pavilion in June 2025 to enhance the downtown area and allow for more community activities and events. (Dkt. 39-1; Dkt. 39-2 ¶¶ 3–4). The Pavilion, which is approximately one block away from the Public Square, offers about ten times the event space of the Public Square. (Dkt. 39-2 ¶ 9). Encouraging groups to host special events at the Pavilion "allows traffic to flow better" through the Public Square. (Dkt. 39-6 at ECF p. 4). As for the 240-foot restriction around the town fountain, Loogootee Mayor Brian Ader testified that keeping the Public Square open to the public is important to the economic activity of surrounding businesses and frees up parking spaces in that area. (*Id.* at ECF pp. 3, 9).

Ordinance No. 2025-14 is also relevant because it identifies the grounds on which the Public Board of Works (the "Board"), the body responsible for ruling on permit

applications, may base its decisions. (Dkt. 33-2 at 94–95). According to the ordinance, the Board "will approve all special event applications submitted to them, unless by a simple majority of . . . the members vote to deny the permit." (*Id.* at 94). The Board may deny a permit application if:

the applicant has on prior occasions made material misrepresentations regarding the nature or scope of any event or activity previously permitted, has held prior special events without proper permitting or licensing, or has violated the terms of a prior permit issued to or on behalf the applicant. A permit may be denied, or conditions placed thereon, ***based upon considerations of the health, safety, and welfare of the community***, and of the anticipated costs of holding such an event. Additionally, the Board of Works may base their decision on one or more of the following grounds:

- (1) The application is not fully completed and/or fails to include necessary attachments;
- (2) The applicant asserts that they cannot or will not pay the application fee.
- (3) The applicant asserts that they cannot or will not pay the cost for Extraordinary Services.
- (4) The application for permit contains misleading statements, material falsehoods, or misrepresentations;
- (5) The applicant is not legally competent to sign a contract, or to be held responsible for its actions;
- (6) The applicant has, on prior occasions, been required to pay for extraordinary expenses or damages to City property and has not paid in full for such expenses or damages;
- (7) A special event permit application for the same time and place, or utilizing extraordinary City resources, has previously been received, and a permit for such previous application has been or will be granted which will authorize uses or activities which does not reasonably permit the multiple occupancy of City facilities or would result in a utilization of City resources which would adversely affect the health, safety, and welfare of the community;
- (8) The special event use or activities intended by the applicant would conflict with previously planned events and programs

which have been organized by others either through the use of City facilities or the unavailability of sufficient City resources for the proposed event;

- (9) The conduct of the proposed special event will likely substantially interrupt normal flow of vehicular and/or pedestrian traffic in the proposed location and cannot be reasonably accommodated by the City;
- (10) The proposed special event is of such a size or nature requiring the diversion of so great a number of police officers or other emergency services as to deny reasonable emergency services to the City as a whole;
- (11) ***The intended Special Event use or activity would present a grave or unreasonable danger to the health or safety of the persons expected to participate in the event, the neighborhood in which the event will occur, the community as a whole, or City property and resources required to be involved with the proposed event;***
- (12) The number of persons expected to participate in the Special Event would result in a concentration of persons, vehicles, or things which cannot be supported at the requested time or location due to a lack of sufficient open area, streets, offsite parking, or traffic controls;
- (13) Activities reasonably expected to occur at the intended Special Event are prohibited by law;
- (14) ***Upon receipt of the results of the investigation from the Police Chief deeming the applicant(s) a risk to the public.***
- (15) Issuance. The Public Board of Works will approve or deny special event permit applications within forty-five (45) days and place conditions upon any permit. The applicant will be notified of the decision within ten business (10) days.

(*Id.* at 94–95 (emphasis added)).

C. Contempt

Because Ordinance 2025-14 largely mirrored Ordinance 2025-01, which the court permanently enjoined in *Patoka Valley I*, Patoka Valley filed a motion for contempt.

(*Patoka Valley I*, Dkt. 103). Before the court ruled on that motion, Loogootee enacted Ordinance No. 2026-01. (Dkt. 33-2 at 99). That ordinance:

- increased the minimum number of people comprising a "special event" from 15 to 50;
- added that in addition to the Green Space and Loogootee City Park that any area in "Loogootee may be considered, with the exception of no location within 240 feet of the center of the town fountain shall be permitted as a location for special events *due to the small area and the amount of barricades to close down the area as well as the desire to keep open the town square to the public*"; and
- amended Paragraph 15 "to state the Public Board of Works will respond to approval [sic] or deny special event permit applications in a reasonable amount of time."

(*Id.* at 99 (emphasis added)). Despite concerns about the "small area," Mayor Ader testified that the Public Square was not too small to accommodate previous Pride festivals. (*Id.* at 19–20). Moreover, even when the Public Square was closed during those festivals, parking remained available on all surrounding streets. (Dkt. 33-1 ¶ 76).

On March 10, 2026, the court held Loogootee in contempt and ordered it to purge the contempt by revoking Ordinance 2025-14 within 15 days. (*Patoka Valley I*, Dkt. 111). Loogootee responded by striking the requirement that a permit application be filed with the City Clerk no less than 45 days before the planned event but made no other changes. (Dkt. 33-2 at 101). Patoka Valley then renewed its application for PrideFest 2026 in the Public Square. (Dkt. 33-1 at 27–32). Loogootee denied the application but indicated that the festival could be held at the Pavilion or the City Park. (*Id.* ¶ 65).

On May 11, 2026, Loogootee gave Patoka Valley 30 days to accept either the Pavilion or the City Park as the festival's location. (*Id.*). On May 31, 2026, Patoka

Valley notified Loogootee that, absent an injunction by PrideFest 2026, it wanted to hold the festival at the Pavilion but would need several streets closed to accommodate the planned entertainment, booths, vendors, and a bounce house. (*Id.* ¶ 66; Dkt. 33-2 at 292).

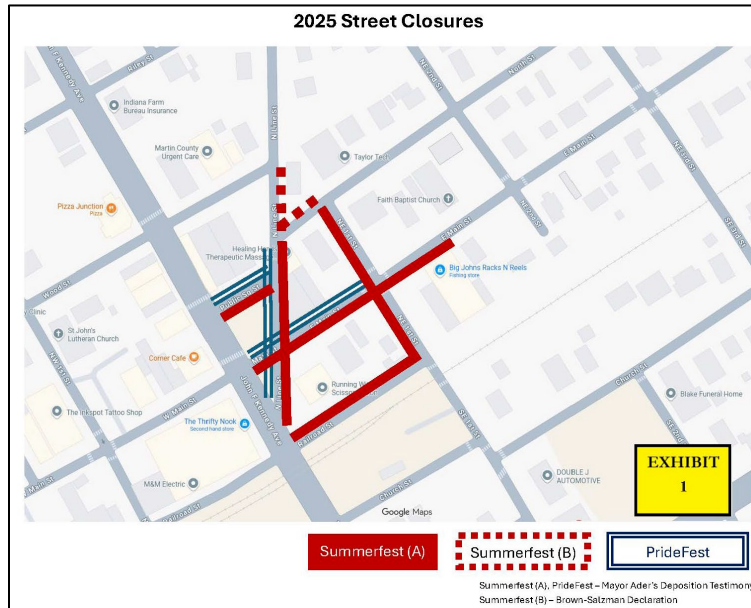
Loogootee approved Patoka Valley's request to hold PrideFest at the Pavilion on September 5, 2026, but denied some of its requested street closures. (Dkt. 33-1 ¶ 66; Dkt. 33-2 at 292).

D. Other Special Events in Loogootee

Most special events in Loogootee are city-sponsored. (*See* Dkt. 33-2 at 32–62). And many of them require street closures. (*See id.*). For example, Loogootee is planning four different car events that, depending on how many vehicles participate, will necessitate closing streets around the Pavilion. (*Id.* at 48–50). During Christmas season last year, the streets around the Pavilion were blocked for a tree lighting, a skating rink located on East Church Street, and a tent erected on Southeast 1st Street. (*Id.* at 51–53). The skating rink was in the street for three days, and part of Southeast 1st Street was blocked off for a few weeks thereafter because events were ongoing. (*Id.* at 53).

The largest event, however, is Summerfest, a three-day summer festival sponsored by Loogootee that attracts an estimated 3,000 attendees. (*Id.* at 58). Because of its size and the need to accommodate entertainment, vendors, food, activities, and amusement rides, Summerfest is too large to be held at the Pavilion and requires the closure of several streets. (*Id.* at 59, 62). The chart below shows the streets closed for PrideFest 2025 (in blue), the streets identified by Mayor Ader as being closed for Summerfest 2025

(in red), and additional streets that Tracy Brown-Salsman (a member of the Patoka Valley Board of Directors) identified as being closed for Summerfest 2025 (in red squares).



(Dkt. 33-10 at 3).

Before Summerfest 2026, Mayor Ader testified about the streets he expected would be closed for the event. (Dkt. 33-2 at 63–65). The chart below shows the streets requested to be closed for PrideFest 2026 (in blue), the streets identified by Mayor Ader as being closed for Summerfest 2026 (in red), and additional streets that Brown-Salsman identified as being closed during Summerfest 2026 (in red squares).



(Dkt. 33-10 at 4). The last day of Summerfest also features a parade that closes U.S. 231 for approximately 45 minutes and goes directly by the Public Square on U.S. 231. (Dkt. 33-1 ¶ 82).

On January 6, 2026, Patoka Valley filed a new complaint against Loogootee seeking injunctive relief requiring the city to allow PrideFest 2026 at its desired location. (Dkt. 1). The complaint also seeks a declaration that Loogootee's ordinances violate the First Amendment. (*Id.*). On April 13, 2026, Patoka Valley filed a motion for preliminary injunction that has been consolidated with a trial on the merits under Federal Rule of Civil Procedure 65(a)(2). (Dkt. 20).

II. Conclusions of Law

A. First Amendment

Patoka Valley challenges three Loogootee ordinances that govern the use of city property for special events: Ordinance No. 2025-14, Ordinance No. 2026-01, and

Ordinance No. 2026-__ (enacted in March 2026). These ordinances require event organizers like Patoka Valley to acquire a permit and pay a nonrefundable fee beforehand.

"An ordinance requiring a permit and fee before speech in a traditional public forum is allowed amounts to a prior restraint on that speech, but the permit and fee may constitutionally be permitted to regulate competing uses of the forum." *Surita v. Hyde*, 665 F.3d 860, 875 (7th Cir. 2011). "Indeed, prior restraints are constitutionally sound time, place, or manner restrictions as long as they are content neutral, are narrowly tailored to serve a significant government interest, leave open alternative avenues for speech, and do not put too much discretion in the hands of government officials." *GEFT Outdoor, LLC v. Monroe Cnty.*, 62 F.4th 321, 327 (7th Cir. 2023). Patoka Valley argues that each of Loogootee's ordinances governing special events fail this test and thus violate the First Amendment.

1. Unbridled Discretion

Patoka Valley first takes issue with Ordinance No. 2025-14, which provides a list of over fifteen grounds on which the Board may base its decision to deny a permit application. (Dkt. 33-2 at 94–95). "Where the licensing official enjoys unduly broad discretion in determining whether to grant or deny a permit, there is a risk that he will favor or disfavor speech based on its content." *Thomas v. Chicago Park Dist.*, 534 U.S. 316, 323 (2002). A time, place, and manner regulation must therefore "contain adequate standards to guide the official's decision and render it subject to effective judicial review." *Id.* These standards must be "narrowly drawn, reasonable and definite." *Forsyth Cnty. v.*

Nationalist Movement, 505 U.S. 123, 133 (1992) (quoting *Niemotko v. Maryland*, 340 U.S. 268, 271 (1951)).

Patoka Valley argues that Ordinance 2025-14 is facially unconstitutional because it grants Loogootee "unbridled discretion" to deny expressive activity. "[T]he success of a facial challenge on the grounds that an ordinance delegates overly broad discretion to the decisionmaker rests not on whether the administrator has exercised his discretion in a content-based manner, but whether there is anything in the ordinance preventing him from doing so." *Id.* at 133 n.10. In *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 753–54 (1988), for example, the Court struck down a city ordinance that allowed the mayor to condition the grant of a permit on, among other things, any "other terms and conditions deemed necessary and reasonable by the Mayor." And in *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 150–51 (1969), the Court struck down a city ordinance that allowed the city commission to condition the grant of a permit on its own ideas of "public welfare, peace, safety, health, decency, good order, morals or convenience." In both cases, broad and subjective standards made officials' decisions essentially unchallengeable.

Here, the same is true of Ordinance No. 2025-14's Section F(6)(iv), insofar as it allows the Board to condition the grant of a permit on "considerations of the health, safety, and welfare of the community."² (Dkt. 33-2 at 94). Like the vague standards in

² Patoka Valley argues that Loogootee cannot challenge this provision and the provision that allows the Board to deny an application if "[t]he intended Special Event use or activity would present a grave or unreasonable danger to the health or safety of the persons expected to participate in the event, the neighborhood in which the event will occur, the community as a

Lakewood and *Shuttlesworth*, this standard is too subjective and vests the Board with too much discretion to grant or deny a permit based on its own assessment of what the community's health, safety, and welfare requires.

The other two provisions, however, demand greater consideration. One allows the Board to deny an application if "[t]he intended Special Event use or activity would present a grave or unreasonable danger to the health or safety of the persons expected to participate in the event, the neighborhood in which the event will occur, the community as a whole, or City property and resources required to be involved with the proposed event." (*Id.* at 94–95). The other allows the Board to deny an application "[u]pon receipt of the results of the investigation from the Police Chief deeming the applicant(s) a risk to the public." (*Id.* at 95).

In *Thomas*, the Court considered a facial challenge to a municipal park ordinance that similarly authorized the denial of permit applications on several specified grounds, including "when the intended use would present an unreasonable danger to the health or safety of park users or Park District employees." 534 U.S. at 324. The Court rejected the need to subject the ordinance to the procedural safeguards ordinarily required for content-based prior restraint regimes. *See id.* at 322. In doing so, it explained that the permissible grounds for denial demonstrated that the "object of the permit system" was

whole, or City property and resources required to be involved with the proposed event" because Loogootee included these same provisions in Ordinance No. 2024-04, which the court previously held was unconstitutional. (Dkt. 33-2 at 94–95; Dkt. 33-4 at 10–11). According to Patoka Valley, the doctrine of *res judicata* bars their reconsideration in this suit. The court assumes without deciding that *res judicata* does not apply here.

"not to exclude communication of a particular content, but to coordinate multiple uses of limited space, to assure preservation of the park facilities, to prevent uses that are dangerous, unlawful, or impermissible under the Park District's rules, and to assure financial accountability for damage caused by the event." *Id.*

The Court also rejected the argument that the licensing scheme lacked "adequate standards to guide the official's decision and render it subject to effective judicial review." *Id.* at 323–24. The grounds for denying a permit were "reasonably specific and objective" and did not "leave the decision 'to the whim of the administrator.'" *Id.* at 324 (quoting *Forsyth County*, 505 U.S. at 133). Here, the court does not take issue with the grounds for denying a permit, which closely resemble those upheld in *Thomas*. Patoka Valley worries that the Board will use these standards to deny permit applications to disfavored speakers. But such abuses of discretion are better resolved through as-applied challenges. *See id.* at 325; *GEFT Outdoor*, 62 F.4th at 328 ("[A]s-applied challenges are available—indeed, preferable—to address abuses of discretion under content-neutral laws.").

Other features of the licensing scheme, however, fail to provide adequate safeguards for effective judicial review of the Board's decision. In *Thomas*, for example, the Park District had to process applications within 28 days and clearly explain its reasons for any denial. 534 U.S. at 324. The ordinance's standards were also "enforceable on review—first by appeal to the General Superintendent of the Park District, and then by writ of common-law certiorari in the Illinois courts." *Id.* (citation omitted). Similar safeguards are absent here.

Start first with the time within which the Board must approve or deny an application. Previously, under Ordinance No. 2025-14, the Board had to approve or deny a permit application within 45 days. (Dkt. 33-2 at 95). Now, under Ordinance No. 2026-01, the Board has "a reasonable amount of time" to decide. (*Id.* at 99).

But a licensing scheme "that fails to place limits on the time within which the decisionmaker must issue the license is impermissible." *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 226 (1990). "Where the licensor has unlimited time within which to issue a license, the risk of arbitrary suppression is as great as the provision of unbridled discretion. A scheme that fails to set reasonable time limits on the decisionmaker creates the risk of indefinitely suppressing permissible speech." *Id.* at 227.

Here, Ordinance No. 2026-01 does not grant the Board unlimited time to issue a permit. But it still fails to cabin the time within which the Board must approve or deny a permit application. A "reasonable amount of time" is too indefinite because, unlike a fixed deadline, it gives the Board too much discretion to delay a permit decision indefinitely. "Without textual guarantees of decision within a certain time or a limiting construction to similar effect, the ordinance cannot survive a facial attack." *Bickers v. Saavedra*, 502 F. Supp. 3d 1354, 1363 (S.D. Ind. 2020) (citing *Lakewood*, 486 U.S. at 770).

Consider also the explanation—or lack thereof—for a permit denial. In *Thomas*, the Park District had to clearly explain the reasons for any denial. 534 U.S. at 324. This makes sense: effective review requires knowing why the application was denied. But on its face, Loogootee's ordinance lacks such a requirement.

Here, Section F(6) discusses the approval and denial of permit applications. (Dkt. 33-2 at 94). According to this section, the Board "will approve all special event applications submitted to them, unless by a simple majority of the . . . members vote to deny the permit." (*Id.*). The ordinance then provides several grounds on which the Board may base its decision. (*Id.* at 94–95). The end of this section explains that the "applicant will be notified of the decision within ten business (10) days." (*Id.* at 95). But the ordinance does not require the Board to explain the grounds for its denial. *Cf. Thomas*, 534 U.S. at 318–19.

Of course, "[a]ny applicant who has been denied a special event permit . . . may seek review of the decision by the City Council by filing a request for review of the denial with the City Clerk within 30 days of the Public Board of Works decision." (Dkt. 33-2 at 95).³ But without any requirement that the Board explain its decision, an appeal to the City Council provides little meaningful review. An applicant cannot meaningfully challenge the Board's application of the ordinance's standards when the Board need not state the grounds for its denial. So even if the standards themselves are permissible, the licensing scheme's failure to provide adequate safeguards for effective judicial review of the Board's decisions renders the scheme unconstitutional.

³ Unlike in *Thomas*, where a permit denial could ultimately be reviewed by an independent court, 534 U.S. at 324, Loogootee's ordinance provides only for an appeal to the City Council, leaving no comparable avenue for judicial review.

2. Geographic Restriction

Patoka Valley also challenges the geographic restriction in Ordinance No. 2025-14 that prohibits special events "within 240 feet of the center of the town fountain." (Dkt. 33-2 at 92–93). According to Loogootee, this area is:

ill-equipped for large outdoor events due to its small size made smaller by the presence of the fountain, the safety concerns presented by traffic on the surrounding thoroughfares, the disruption to adjacent businesses and apartments when those thoroughfares must be shut down to accommodate well attended events with vendor booths or other attractions, and the impact large events have on the appearance and condition of [the] square and adjacent areas, all of which are within the Loogootee Commercial Historic District.

(Dkt. 40 at 4–5).

Unlike other provisions that Patoka Valley challenges, this regulation does not put too much discretion in the hands of government officials. Still, the court must determine whether this regulation is (1) content-neutral, (2) narrowly tailored to serve a significant government interest, and (3) leaves open ample alternative channels of communication. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Patoka Valley argues that even if this geographic restriction is content-neutral, it is not narrowly tailored to serve a significant government interest and fails to leave open ample alternative channels. Since the court agrees that the restriction is not narrowly tailored, it begins and ends its analysis there.

The narrow tailoring requirement does not mean that Loogootee must use "the least restrictive or least intrusive means" to achieve its interests. *Id.* at 798. "Rather, the requirement of narrow tailoring is satisfied 'so long as the . . . regulation promotes a

substantial government interest that would be achieved less effectively absent the regulation." *Id.* at 799 (quoting *United States v. Albertini*, 472 U.S. 675, 689 (1985)). Still, the regulation may not "burden substantially more speech than is necessary to further" those interests. *Id.* And Loogootee bears the burden of showing that its regulation is narrowly tailored to further its asserted interests. *See Turner Broad. Sys., Inc. v. F.C.C.*, 512 U.S. 622, 665 (1994).

Loogootee has essentially created a 240-foot special-event-free zone around the Public Square. A special event includes any temporary event that will have at least fifty attendees and involves at least one of the circumstances listed below:

- (a) Produced or sponsored by a person or organization for which the event is extraordinary in that it is not ordinarily conducted on a daily or regular normal average use basis as a lawful use of the premises upon which such event is to occur;
- (b) Exclusive use of all or part of City-owned facilities, within the City boundaries, such as buildings, parks, open spaces, streets, parking lots, athletic fields, etc., but does not include normal park shelter rentals;
- (c) Cannot be held completely within the confines of an existing building, park;
- (d) Will involve the temporary closing of a public street, alley, parking lot or public right-of-way;
- (e) Will have over 300 people attending the event (or multiple events as part of a series) on private property, except those situations explained in section C of this chapter;
- (f) Will require extraordinary services by any City Department[.]

(Dkt. 33-2 at 90). This definition is broad enough to encompass any nonroutine gathering of fifty or more people on Loogootee-owned property.

Ordinance 2025-14 makes clear that Loogootee's justifications for this geographic restriction are rooted in public safety, the free flow of traffic, and the preservation of

public property. (*See id.* at 89). These interests are undoubtedly significant. *See Thomas*, 534 U.S. at 322; *Schenck v. Pro-Choice Network of Western N.Y.*, 519 U.S. 357, 376 (1997) (recognizing legitimacy of government's interest in "ensuring public safety and order" and "promoting the free flow of traffic on streets and sidewalks"); *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 296 (1984) (recognizing government's substantial interest in "maintaining the parks in the heart of our Capital in an attractive and intact condition"). The question is whether prohibiting special events within 240 feet of the Public Square is narrowly tailored to further those interests.

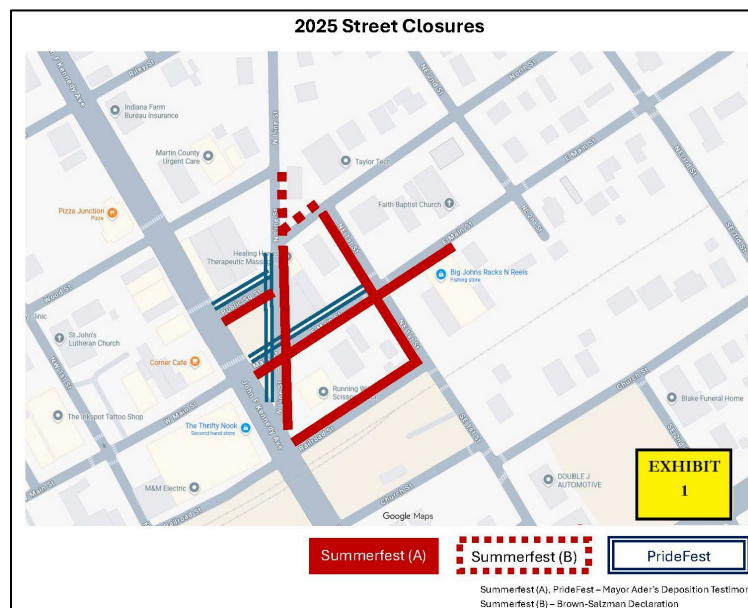
Loogootee argues that it would achieve its interests less effectively absent the geographic restriction. But the restriction takes a collection of generalized problems associated with some "special events" and uses them to categorically exclude all special events within 240 feet of the Public Square. This raises an important question: why 240 feet? Mayor Ader's answer:

Well, we just . . . took the fountain and just made a circle just to reach the streets that were - - you know, that we had stuff on originally and everything like that, and we made a lot of changes since everything got moved down to the pavilion and it allows traffic to flow better.

(Dkt. 33-2 at 21). Missing from this answer is any acknowledgement of the heightened public safety concerns in this area. But Loogootee "cannot blindly invoke safety and congestion concerns without more" because "First Amendment rights demand more than mere facial assertions." *Weinberg v. City of Chicago*, 310 F.3d 1029, 1038 (7th Cir. 2002). So what evidence is there that public safety and traffic concerns are particularly acute within 240 feet of the Public Square?

Not much, it turns out. For one, although Loogootee argues that the Public Square is ill-equipped for large outdoor events because of its small size, Patoka Valley has used the Public Square to host PrideFest for the last three years without any problems. (*See* Dkt. 33-2 at 19–20 (Q: Well, in terms of the festival, was - - was it too small to contain the festival? A: No.)).

Loogootee also cites the safety concerns presented by traffic on surrounding thoroughfares and the disruption to adjacent businesses and apartments when those thoroughfares must be shut down. Again, the evidence does not make clear why these harms are exclusive to the Public Square. Every year, Loogootee hosts Summerfest, a three-day summer festival attended by an estimated 3,000 people. (*Id.* at 58). Because of its size and the need to accommodate entertainment, vendors, food, activities, and amusement rides, many streets must be closed. (*Id.* at 59, 62, 265). During Summerfest 2025, that included streets in the Public Square area:



(Dkt 32-10 at 3).

That changed for Summerfest 2026. But Loogootee still closed several streets in the surrounding area:



(*Id.* at 4). Why are the safety concerns presented by traffic and the disruption to businesses and apartments absent on the streets adjacent to the Public Square? After all, even closing the Public Square does not affect the parking available on any of the surrounding streets. (Dkt. 33-1 ¶ 76). Loogootee does not provide a clear answer. But the court has a hard time understanding why those concerns magically disappear once a special event moves a foot outside the 240-foot perimeter surrounding the Public Square.

In support of its position, Loogootee relies on *Knowlton v. City of Wauwatosa*, 119 F.4th 507 (7th Cir. 2024). There, the city's mayor imposed a temporary curfew in anticipation of possible unrest after prosecutors decided not to criminally charge a police officer who had shot and killed a Black teenager. *Id.* at 512–13. In the months leading up to the curfew, "[p]eople were shutting down businesses, pushing people, driving on

neighbors' lawns, trashing store windows and windows to the police and the fire commissioners[,] and [b]locking off intersections." *Id.* at 516 (citation modified). Given the evidence of anticipated unrest, the curfew "was not substantially broader than necessary to prevent the harm it targeted—unsafe conditions in the days immediately following the district attorney's no prosecution announcement." *Id.* at 517.

Loogootee's reliance on *Knowlton* is misplaced, however, because the City has offered no evidence establishing a threat of future harm. There is no evidence of disruption, safety, or other concerns caused by special events held in the Public Square. And there is no reason to think that such concerns will occur if Loogootee does not categorically prohibit special events within 240 feet of the Public Square. A categorical prohibition is an easier way to address those concerns because it ensures they never materialize. But "[t]o meet the requirement of narrow tailoring, the government must demonstrate that alternative measures that burden substantially less speech would fail to achieve the government's interests, not simply that the chosen route is easier." *McCullen v. Coakley*, 573 U.S. 464, 495 (2014).

And here, the permitting scheme itself offers a less restrictive alternative. Indeed, public safety and traffic congestion are precisely the kinds of concerns the Board considers when deciding whether to issue a permit. (*See* Dkt. 33-2 at 94–95). Rather than categorically prohibiting all special events in the Public Square, the Board can deny permits to special events that threaten Loogootee's interests. This approach allows Loogootee to address events that create public safety and traffic concerns in a more targeted manner. At the same time, it avoids unnecessarily burdening speech by closing

off an important public area to an entire category of expressive gatherings. Since the geographic restriction prohibits substantially more speech than Loogootee's stated interests require, it fails the narrowly tailored requirement and therefore violates the First Amendment.

III. Remedy

Patoka Valley requests a permanent injunction enjoining enforcement of the challenged ordinances and requiring Loogootee to allow PrideFest 2026 to take place in the area where Patoka Valley has previously held Pride festivals and has requested to hold the 2026 festival.

A. Permanent Injunction Factors

To obtain a permanent injunction, a plaintiff must first be successful on the merits. *Collins v. Hamilton*, 349 F.3d 371, 374 (7th Cir. 2003). Then, it must show "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006).

As discussed above, Patoka Valley has prevailed on the merits of its First Amendment claim that Loogootee's ordinances governing special events are unconstitutional. Patoka Valley also satisfies the other permanent injunction factors. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976)

(plurality opinion). Additionally, a First Amendment injury is difficult to quantify, making damages an inadequate remedy and an injunction especially appropriate. *Flower Cab Co. v. Petite*, 685 F.2d 192, 195 (7th Cir. 1982); *Nat'l People's Action v. Vill of Wilmette*, 914 F.2d 1008, 1013 (7th Cir. 1990). Furthermore, "injunctions protecting First Amendment freedoms are always in the public interest." *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006). A permanent injunction is therefore appropriate here.

B. Severability

"Severability of a local ordinance is a question of state law." *Lakewood*, 486 U.S. at 772. To determine whether a provision is severable under Indiana law, the court asks (1) "whether the statute can stand on its own without the invalid provision," and (2) "whether the legislature intended the remainder of the statute to stand if the invalid provision is severed." *GEFT Outdoor*, 62 F.4th at 331 (quoting *City of Hammond v. Herman & Kittle Props., Inc.*, 119 N.E.3d 70, 87 (Ind. 2019)). "If the answer to either question is no, 'the offending provision is not severable, and the whole statute must be stricken.'" *Id.* (quoting *Hammond*, 119 N.E.3d at 87).

In short, the key question here is whether Loogootee would have enacted the challenged ordinances "had it been presented without the invalid features." *Does v. City of Indianapolis*, No. 1:06-cv-865, 2006 WL 2927598, at *10 (S.D. Ind. Oct. 5, 2006) (quoting *State v. Barker*, 809 N.E.2d 312, 317 (Ind. 2004)). The answer to that question is clearly no. The court therefore concludes that the challenged ordinances should be struck in their entirety.

C. PrideFest 2026

Patoka Valley also argues that, because Loogootee's ordinances are invalid, it is entitled to a permanent injunction requiring Loogootee to allow PrideFest 2026 to take place as requested in its September 2025 application—that is, on September 5, 2026, from 10:00 a.m. to 7:00 p.m., in and around the Public Square. The court concludes that this request is appropriate.

IV. Conclusion

For the foregoing reasons, the court enters **JUDGMENT** in favor of Plaintiff and against Defendant on Plaintiff's First Amendment claim. Defendant is hereby **ENJOINED** from enforcing Ordinance No. 2025-14, Ordinance No. 2026-01, and Ordinance No. 2026-__ (enacted in March 2026). The court also **ORDERS** Defendant to allow PrideFest 2026 to take place on September 5, 2026, from 10:00 a.m. to 7:00 p.m., in the Public Square with Public Square Street, Main Street, and Line Street to be closed as requested by Patoka Valley. The injunction and final judgment shall be set forth in separate orders.

IT IS SO ORDERED this 31st day of August 2026.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

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