

AN ORDINANCE 2007-11-29-1193

REPEALING ARTICLE XII (PARADES) AND ARTICLE XIII (RUN, WALK, AND CYCLING EVENTS) IN CHAPTER 19 OF THE CITY CODE; AND CREATING ARTICLE XVII (PARADES, RUNS, WALKS AND RELATED EVENTS) IN CHAPTER 19 OF THE CITY CODE; AND PROVIDING FOR CERTAIN EXEMPTIONS AND CRIMINAL PENALTIES FOR VIOLATIONS; AND DIRECTING CITY CLERK TO PUBLISH NOTICE OF THIS ORDINANCE AS REQUIRED BY THE CHARTER OF THE CITY OF SAN ANTONIO AND THE LAWS OF THE STATE OF TEXAS.

WHEREAS, the issuance of a parade permit is currently addressed by Article XII (Parades) of Chapter 19 of the City Code; and

WHEREAS, the issuance of a run, walk, or cycling event permit is currently addressed by Article XIII (Run, Walk and Cycling Events) of the City Code; and

WHEREAS, it is advantageous to standardize and simplify the permit process for these two types of events; and

WHEREAS, in the past, City Council has recognized the benefit and importance to the community of certain annual parades and events utilizing the City's streets, the Diez Y Seis Parade, the Veterans Day Parade, and the Martin Luther King March and finds funding of these events to be in the public interest; and

WHEREAS, the City has either paid for or absorbed the costs of traffic control personnel, and, in some cases, traffic control devices for these events; and

WHEREAS, City Council wishes to continue this policy; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Article XII (Parades) of Chapter 19 of the City Code of San Antonio, Texas is hereby repealed.

SECTION 2. Article XIII (Run, Walk and Cycling Events) of Chapter 19 of the City Code of San Antonio, Texas is hereby repealed.

SECTION 3. Article XVII (Parades, Runs, Walks and Related Events) of Chapter 19 of the City Code of San Antonio, Texas is hereby established for the purpose of consolidating regulations

regarding events taking place on city streets, alleys and public thoroughfares and to establish a no-cost alternative for public expression. This regulation shall contain the following provisions.

Sec. 19-630. Definitions.

For this chapter, the following definitions shall apply, unless the context clearly indicates otherwise:

- (1) "Chief of Police" shall mean the chief of police of the San Antonio Police Department or his designated representative.
- (2) "City Manager" shall mean the city manager of the City of San Antonio or his designated representative.
- (3) "Permit holder" shall mean a person issued a procession permit pursuant to this article.
- (4) "Procession" shall mean a group of persons moving along, by whatever means, in an orderly, formal manner on any street, alley, or public thoroughfare from a point of origin to a point of termination or a group of persons moving along, by whatever means, in an orderly, formal manner anywhere else in the city from a point of origin to a point of termination in such a way as to impede the normal flow or regulation of pedestrian or vehicular traffic.
- (5) "Procession Permit" shall mean the procession permit required by this article.
- (6) "First Amendment Activity" shall mean all expressive and associative activity that is protected by the United States and Texas Constitutions, including speech, press, assembly, and the right to petition, but not including commercial advertising.
- (7) "First Amendment Procession" shall mean a procession, the sole or principal object of which is First Amendment activity
- (8) "Non-First Amendment Procession" shall mean a procession the sole or principal object of which is not First Amendment activity.
- (9) "City Attorney" shall mean the city attorney of the City of San Antonio or his designated representative.
- (10) "Procession Unit" shall mean any vehicle, animal or object used to transport a person who is participating in a procession.
- (11) "Organize" shall mean to arrange systematically as an individual or with a committee or group for harmonious or united action.

Sec. 19-631. Permit Required.

No person shall organize any procession without having first obtained a procession permit.

Sec. 19-632. Exceptions to Application.

This article shall not apply to:

- (1) funeral processions or escorts;
- (2) a governmental agency acting within the scope of its functions;

- (3) the movement of persons in an orderly, formal manner from a point of origin to a point of termination on a sidewalk, so long as the movement does not impede the normal flow or regulation of pedestrian or vehicular traffic; or
- (4) a public assemblage that does not involve the movement of persons in an orderly, formal manner from a point of origin to a point of termination.

Sec. 19-633. Application for Permit.

(A) A person seeking issuance of a procession permit shall file an application with the chief of police on forms provided by such officer.

(B) First Amendment Procession Permits

- (1) An application for a First Amendment procession permit shall be filed with the chief of police not less than thirty calendar days nor more than one hundred fifty calendar days before the proposed procession date;
- (2) Where the organization of a First Amendment procession, however, begins within thirty calendar days of the proposed procession date, an application for a First Amendment procession permit shall be filed with the chief of police within three calendar days of the date on which organization of the procession begins, but not less than two calendar days before the proposed procession date.
- (3) The chief of police, may consider a First Amendment application filed less than thirty calendar days, but not less than two calendar days, before the proposed procession date where organization of the procession began more than thirty calendar days before the proposed procession date so long as there is adequate time for SAPD to process the application and plan for the procession.

(C) Non-First Amendment Procession.

- (1) An application for a non-First Amendment Procession permit shall be filed with the chief of police not less than forty-five calendar days nor more than one hundred fifty calendar days before the proposed procession date.
 - (2) The chief of police may consider a non-First Amendment Procession application filed less than forty-five calendar days before the proposed procession date, but not less than four calendar days, before the proposed procession date where organization of the procession began more than forty-five calendar days before the proposed procession date so long as there is adequate time for SAPD to process the application and plan for the procession.
- (D) The permit holder for a procession actually held during a prior year may receive advance approval of the route, date, and time not more than thirteen months in advance of the scheduled date of the procession. The chief of police may give

advance approval after receiving a written request from the permit holder. The permit holder shall receive the right of first refusal as to the route, date, and time of the procession that may be exercised until ninety calendar days prior to the approved date of the procession.

- (E) The application shall contain the following:
- (1) the name, address, and telephone number of the person seeking to conduct the procession;
 - (2) where the procession is to be held for or by an entity, rather than an individual, the name, address, and telephone number of the entity and the name, address, and telephone number of the head of the entity;
 - (3) where the procession is to be held by or for any person other than the applicant, documentation evidencing authority to make the application;
 - (4) the name, address, and telephone number of the person who will be the procession chairman and who will be responsible for its conduct;
 - (5) the date the procession will be conducted;
 - (6) the location of the assembly area, the starting point of the procession, the route of the procession, the ending point of the procession, and the location of the disbanding area;
 - (7) the approximate number of persons who will participate in the procession;
 - (8) the approximate number vehicles that will be included in the procession and a description of those vehicles;
 - (9) the approximate number of animals and the type of animals that will be included in the procession;
 - (10) the time when the procession will begin and end;
 - (11) a statement as to whether the procession will occupy all or only a portion of the width of the streets proposed to be used;
 - (12) the time at which units of the procession will arrive at the assembly area;
 - (13) the purpose of the procession; and
 - (14) any other information which the chief of police finds necessary to an evaluation of the request under the standards for issuance set forth in section 19-634.
- (F) The application shall be accompanied by a fee of \$75. In the event the organizers of an event cannot provide payment with the application, an organizer may submit an affidavit attesting that he or she will provide payment within 15 business days of the date of the submission of the application. Failure to provide payment will trigger the surety bond requirement in Section 19-636 for future procession events by organizers, and the organizer signing the affidavit shall become personally responsible for payment.

the city council or the city manager, within seven calendar days after receipt of the notice provided above. The appeal shall be heard within ten calendar days of the filing of the appeal. The council or manager or the manager's designee shall hear the appeal as soon as practicable. The decision of the City Council or the City Manager or the designee is final.

- (B) Where the denial of a permit application is upheld on appeal by the City Council or the City Manager, the city, acting by and through its city attorney, shall, within five days following the appellate decision, apply to either a United States federal district court or to a state district court for a judicial determination as to whether the proposed procession described in the application may be prohibited, naming the applicant as party defendant. The city attorney shall exert every reasonable effort to have the case heard on its merits without delay. The burden of showing that the proposed procession may be prohibited shall rest on the city. If the city appeals an adverse judicial determination, it shall file its notice of appeal within five days after the ruling has been issued by the court.

Sec. 19-636. Duties of and Costs to be Paid by Permit Holder.

- (A) Each permit holder shall comply with all requirements of this article, the permit directions and conditions, and with all applicable laws and ordinances.
- (B) Each permit holder is responsible for the costs of
- (1) providing traffic control devices for the procession route in accordance with section 19-66 of this chapter;
 - (2) providing traffic control personnel, whether on duty or on overtime, for the procession route; and
 - (3) cleaning up the procession route.

Costs will be determined based on the proposed route, time of day, time of year and anticipated number of individuals in procession. For First Amendment events, the City shall absorb the first \$3000 of the traffic control device and traffic control personnel costs on behalf of the permit holder.

Traffic control personnel shall be in a number sufficient to adequately safeguard the safety of the event participants and the general public, as determined by the chief of police. Traffic control personnel shall be limited to the furthest extent practicable to city uniformed police officers, and may include, with approval of the chief of police, other uniformed, certified peace officers knowledgeable of traffic control laws. Events held within the downtown expressway loop requires the use of SAPD officers, unless staffing restraints would lead to the denial of the permit, in which case the use of other certified peace officers may be permitted by the chief.

The permit holder shall obtain approval of the traffic control plan described above by the chief of police. The permit holder shall receive from the city an invoice for the required costs within fifteen calendar days after the procession. The payment for these costs shall be due to the city within thirty calendar days after the date of the procession.

- (C) Because of its broad appeal, historic tradition, cultural significance, and other public benefits provided by the Deiz Y Seis Parade, the city shall cover the costs of traffic control personnel. Because of their broad appeal, historic tradition, cultural significance, association with a national holiday or a day given statewide recognition, and other public benefits provided by the Martin Luther King March and the Veterans Day Parade, the city shall cover the costs of traffic control personnel and traffic control devices.
- (D) If an applicant owes fees not timely paid in connection with a procession previously approved and conducted or if the estimated costs to the city under this section are greater than \$10,000.00, the applicant shall, prior to approval of the application for a procession permit, file a surety bond in accordance with and as described in section 1-16 of this code in the amount of the estimated costs.
- (E) Prior to approval of the application for a Non-First Amendment Procession permit, the applicant shall submit to the chief of police a certificate of insurance and endorsement evidencing commercial general liability coverage, including premises/operations, independent contractors, personal injury, and contractual liability, at a combined single limit of \$1,000,000.00 per occurrence, with the City of San Antonio being named as the additional insured by endorsement. The applicant shall provide at least thirty days' advance notice of cancellation or material alteration of the insurance policy. The city recommends and encourages, but does not require the organizers of First Amendment processions to also obtain insurance for their events.
- (F) At least 24 hours before the scheduled start of the event, the permit holder for a "Non-First Amendment Procession" shall make a reasonable effort to notify the businesses and residences located around the assembly area, along the procession route, and around the disbanding area of the scheduled procession. A copy of any flyer or handout used in making the notification shall be provided to the chief of police at least 24 hours prior to the beginning of the procession. It is recommended, but not required, that the permit holder for a "First Amendment Procession" provide the same notices.

Sec. 19-637. Revocation of Permit.

The chief of police shall have the authority to revoke a procession permit issued pursuant to this article when the conditions supporting the findings made by the chief of police pursuant to section 19-634 change in such a way, prior to the date on which the

procession is to be held, that a procession permit would not otherwise be issued. The chief of police shall have the authority to revoke a procession permit if the permit holder does not comply with section 19-636.

Sec. 19-638. Public Conduct During Parades.

- (A) Interference. It shall be unlawful for any person to hamper, obstruct or impede, or interfere with any procession or procession assembly or with any person, vehicle, or animal participating or used in a procession.
- (B) Driving through processions. It shall be unlawful for any driver of a vehicle to drive between the vehicles or persons comprising a procession when such vehicles or persons are in motion and are conspicuously designated as a procession unless directed to do so by a police officer.
- (C) Parking on procession route. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route, forming area, disbanding area, or buffer zone of a procession. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.
- (D) Prohibited substances. It shall be unlawful for any person to sell, possess, or use a pressurized container of the substance commonly known as "liquid string," "silly string," or "super string," or any quantity of the small explosive devices commonly known as "snappers," "throw downs," "pop pops," or "popping match sticks," which are paper-wrapped wads of sand coated with a minute quantity of explosive powder and adhesive, producing a small report upon impact with hard surfaces, in any public place or private property.
- (E) Control of processions; restrictions. Upon initiation of a procession the chief of police shall take over control of the movement of the procession. All participants shall be required to maintain a forward progress. No participant shall throw or give away candy, gifts, tokens, advertisements, or any other objects from any participant or procession unit while the unit is on the procession route. This provision is not intended to prohibit the distribution of expressive material protected under the first amendment, including leaflets, provided the distribution is not from a procession unit that is on the procession route. Failure to observe these requirements shall constitute a violation of this article and the chief of police is empowered to remove this unit from the procession immediately.

Sec. 19-639. Criminal Penalties.

- (A) It shall be unlawful to fail to obtain a permit required under this chapter for any procession. Any violation committed intentionally, knowingly or recklessly shall be

deemed to be guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding five hundred dollars (\$500.00).

- (B) The intentional, knowing or reckless commission of any act made unlawful by Sec. 19-638 shall be deemed a misdemeanor and shall upon conviction be punished by a fine not exceed five hundred dollars (\$500.00).

SECTION 4. All other provisions of Chapter 19 of the City Code of San Antonio, Texas shall remain in full force and effect.

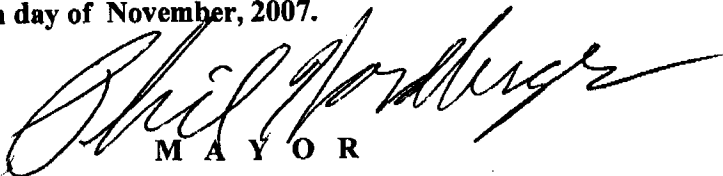
SECTION 5. Should any article, section, part, paragraph, sentence, phrase, clause, or word of this ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend this code to reflect the changes adopted in this ordinance and to correct typographical errors and to format and number paragraphs to conform to the existing code.

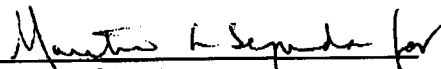
SECTION 7. The City Clerk of the City of San Antonio is directed to publish notice of this ordinance as required by the Charter of the City of San Antonio and the laws of the State of Texas.

SECTION 8. This ordinance shall take effect ten days from the date of passage. The penalties for violation of the ordinance as set out in Section 19-639 shall become effective five days after publication.

PASSED AND APPROVED this 29th day of November, 2007.


M A Y O R

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney