

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 38, STREETS AND SIDEWALKS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XII, SPECIAL EVENTS, PARADES AND RACES, SECTION 38-332, DEFINITIONS; SECTION 38-333, PERMIT REQUIRED; SECTION 38-334, APPLICATION FEE; SECTION 38-335, APPLICATION FOR PERMIT; SECTION 38-336, PERMIT PROCESSING AND APPROVAL PROCESS; SECTION 38-337, REVOCATION; SECTION 38-339, RETROACTIVE APPLICATION OF ORDINANCE AND BY ADDING THERETO A NEW SECTION, NAMELY: SECTION 38-340, CITY MANAGER MAY PROMULGATE POLICIES.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Newport News, Virginia:

That Chapter 38, Streets and Sidewalks, of the Code of the City of Newport News, Virginia, Article XII, Special Events, Section 38-332, Definitions; Section 38-334, Application fee; Section 38-333, Permit required; Section 38-335, Application for permit; and Section 38-336, Permit processing and approval process; Section 38-337, Revocation; Section 38-339, Retroactive application of ordinance, be, and the same hereby is, amended and reordained, and by adding thereto a new section, namely: section 37-340, City manager may promulgate policies, as follows:

CHAPTER 38**STREETS AND SIDEWALKS****ARTICLE XII. SPECIAL EVENTS, PARADES AND RACES****Sec. 38-332. Definitions.**

The following words and terms when used in this article, shall have the meanings indicated below:

- (a) City manager means the city manager of Newport News or their designee.
- (b) Director means the director of the department of engineering or his designee.
- (c) Expanded event means any event hld on a public right of way (including streets and sidewalks) and/or public venue that:
 - (1) Includes 100 or more persons (attendees, volunteers, spectators); or

- (2) Regardless of number of attendees, includes a foot race, tour, parade, awareness walk or march, rally, demonstration, carnival, charity event, fundraiser, festival, fair, or concert.
- (cd) Limited event means an event held on a public right of way (including streets and sidewalks) and/or public venue that includes less than 100 persons (attendees, volunteers, spectators) and is specifically a block party, neighborhood social, reunion, wedding ceremony, wedding reception, media event, photo shoot or organization-hosted event (including religious organizations) not defined under c2. above. Any special event intended as a charity fundraiser that uses a public venue only with no impacts to public right-of-way (streets or sidewalks) no matter the number of people in attendance shall be classified as a limited event.
- (ce) *Parade* means any march, walk, or procession consisting of people, animals, bicycles, vehicles, or a combination thereof, upon any street or sidewalk within the city and interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic.
- (df) *Public assembly* means any meeting, demonstration, picket line, rally, or gathering of any kind that occupies any street or sidewalk within the city and interferes with or is likely to interfere with the normal flow or regulation of pedestrian or vehicular traffic.
- (eg) *Race* means an organized competitive event consisting of people, bicycles, or other vehicular devices, or a combination thereof, upon any street within the city.
- (fh) *Sidewalk* means any area in the city dedicated to the public use for purposes of pedestrian traffic.
- (bi) *Special event* means ~~a public assembly or block party~~ any event within the definition of expanded event or limited event above.
- (gj) *Spontaneous event* means an unplanned coming together of persons or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein, and which is caused by or in response to unforeseen circumstances or events.
- (hk) *Street* means any public roadway or portions thereof in the city dedicated to the public use for purposes of vehicular traffic, including any shoulder, right-of-way, median strip, or footpath thereof.

Sec. 38-333. Permit required.

(a) Except as otherwise provided in subsection (b), it shall be unlawful for any person, group, or organization to conduct or participate in any special event, ~~parade, or race~~ on any street, sidewalk, or city-owned or leased public parking lot in the city, or other outdoor public venue, for which a special event permit has not been issued in accordance with the provisions of this article.

(b) Exceptions. No permit shall be required for:

(1) Any special event ~~or parade~~ consisting of no more than one hundred (100) persons and which takes place on any sidewalk or other public right-of-way that is not used for the movement of vehicular traffic;

(2) Spontaneous events;

(3) Any special event, ~~parade, or race~~ not in City Center at Oyster Point, but otherwise conducted entirely in a city park or on the streets and sidewalks therein, or in an area under the control of the department of parks, recreation, and tourism for a particular event or activity. The rules and regulations of the department of parks, recreation, and tourism shall govern such ~~conducts~~ special event;

(4) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of school authorities;

(5) The United States military forces, and the military forces of the state;

(6) The police and fire departments of the state, city, and of any other locality rendering aid;

(7) Any governmental agency acting within the scope of its functions or in the course of a ceremonial function; and

(8) Wedding or funeral processions.

(c) Notwithstanding the above exceptions, picketing before or about the residence or dwelling place of any individual is prohibited pursuant to section 28-32.

Sec. 38-334. Application fee; cost recovery.

(a) There shall be paid by the applicant or sponsor at the time of application, a non-refundable fee of fifty dollars (\$50.00) for each ~~special event, parade, or race~~ limited event and

one hundred dollars (\$100.00 for each expanded event to cover the administrative costs of processing the permit.

(b) No application shall be considered complete until the required fee is paid.

(c) Expanded event applicants shall pay for cost recovery of city provided services, including, but not limited to: staff time (including salary, burden, and overtime costs); equipment use or rental; and facility use or rental as applicable to and required for the special event. The cost will be based on actual cost incurred by the city, and an estimate of these costs will be provided by the city and paid by the applicant prior to the event. Once the event has been concluded, the actual cost will be computed and provided by the city. The applicant will pay actual costs exceeding the original estimate, and will be entitled to a refund of the difference between actual costs and the original estimate if the actual costs were lower.

(d) Applicants are exempt from the application fee for parades and public assemblies the primary purpose of which is the exercise of expressive activity and free speech as guaranteed by the First Amendment of the Constitution of the United States. The city manager shall grant or deny the exemption under this subsection with the advice and consent of the city attorney.

Sec. 38-335. Application for permit.

(a) *Filing period.* An application for a permit for any ~~parade, block party, or race~~ special event shall be made to the ~~director~~ city manager, accompanied by a non-refundable application fee as provided in section 38-334. The application shall be submitted not less than twenty-one (21) days ~~nor for limited events and not less than ninety (90) days for expanded events.~~ No application shall be accepted more than one hundred eighty (180) days before the date on which the special event will occur. However, the application for any activity the primary purpose of which is the exercise of expressive activity and free speech as guaranteed by the First Amendment shall be submitted not less than two (2) business days nor more than one hundred eighty (180) days before the date on which the event will occur.

(b) Any person, group, or organization desiring to conduct a special event, ~~parade, or race~~ shall make written application to include the following:

- (1) The name, address, telephone number, and e-mail address of the person requesting the permit;
- (2) The name and address of any person, group, or organization the applicant is representing;
- (3) The name, address, telephone number, and e-mail address of the person who will act as the special event, ~~parade, or race~~ leader or chairman and who will be

responsible for the conduct of the ~~parade or race~~ special event;

- (4) A description of the activities planned during the special event;
- (5) The date and time (start and end) of the special event, ~~parade, or race~~ and rain date (if applicable);
- (6) The specific assembly and dispersal locations, a sketch and description of the specific route, appropriate traffic control, and the plans, if any, for assembly and dispersal;
- (7) The approximate number of people who, and animals and vehicles which, will constitute such special event, ~~parade, or race~~ and the type of animals and a description of the vehicles (e.g., marching units, floats, etc.), including but not limited to vehicle size and weight;
- (8) A statement as to whether the special event, ~~parade, or race~~ intends to occupy all or only a portion of the width of the streets or sidewalks proposed to be traversed or used;
- (9) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the special event, ~~parade, or race~~;
- (10) The type and proposed location of any reviewing stands, temporary structures, and restroom facilities; and
- (11) Such other information as the ~~director~~ city manager may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the protection of public health, safety, and welfare.

Sec. 38-336. Permit processing and approval process.

(a) The ~~director~~ city manager shall process applications for special event, ~~parade, and race~~ permits in the order in which they are received, and shall notify the applicant in writing at the address provided by the applicant, of his decision no later than ~~fourteen (14)~~ ten (10) business days for a limited event and fifteen (15) business days for an expanded event (excluding city holidays) following the date the completed application is received. First Amendment activities which require application for a permit not less than two (2) business days before the event shall be processed immediately, and the applicant notified of a decision forthwith. If the application is denied, the applicant shall be apprised in writing of the reason.

(b) The directorcity manager may deny an application, applying any of the following criteria and finding that:

- (1) Due to the time, duration, route or size of the special event, ~~parade, or race~~, the proposed activity presents an unreasonable safety or health risk to participants, spectators, or the public; or
- (2) Due to the condition of the street or sidewalk, including scheduled construction or maintenance, the proposed activity presents an unreasonable safety or health risk to participants, spectators, or the public; or
- (3) Public safety resources to support the activity are not reasonably available; or
- (4) The conduct of the activity will unduly interfere with the proper fire and police protection of, or ambulance service to, all or part of the city; or
- (5) The activity will cause irreconcilable interference with a competing special event; ~~parade, race~~; or other activities and/or the operation of local businesses in the immediate surrounding area; or
- (6) Other special event, ~~parade, or race~~ permit requirements have not been met; or
- (7) The application contains a material falsehood or misrepresentation; or
- (8) The applicant or the person, group, or organization on whose behalf the application for permit was made has on one (1) or more prior occasions made material falsehoods or misrepresentations regarding the nature or scope of a special event; ~~parade, or race~~ previously permitted or has violated the requirements or conditions of a prior permit issued to or on behalf of the applicant; or
- (9) The applicant or the person, group, or organization on whose behalf the application for permit was made has past due or unpaid balances of costs and fees from previous events.

(c) A denied permit application may be resubmitted for review. An additional application fee will not be required if resubmitted within thirty (30) days. A resubmitted permit application is subject to the same criteria as an original application and any changes submitted by the applicant are not grounds for automatic approval.

(d) Permit conditions. The directorcity manager may condition the issuance of a permit by imposing ~~reasonable~~ requirements or conditions ~~as are necessary~~that are, in his discretion, reasonably appropriate to protect the safety and rights of persons and property and control of traffic, provided that the applicant's rights under the First Amendment are not denied thereby. In

order to accommodate the rights of abutting owners and the needs of the public to use the streets and sidewalks, and to protect the safety of the event participants, the conditions may include but are not limited to reasonable adjustments in the date, time, route, and location of the proposed event; designation of parking areas, and assembly and dispersal locations; accommodations for pedestrian and vehicular traffic using the streets and sidewalks; limitations on the length and duration of the event; and the use of monitors, security personnel, or off-duty police officers. If emergency medical services and/or security services are desired, or required by the city, the applicant shall be responsible for obtaining and paying for those services.

(e) Insurance. The applicant shall provide evidence of general liability insurance for a special event, ~~parade, or race~~ in amounts of ~~five hundred thousand dollars (\$500,000.00)~~ one million dollars (\$1,000,000.00) combined single limit for bodily injury or death to any person or persons; and ~~fifty thousand dollars (\$50,000.00)~~ for damage to property. Such insurance policy shall include an endorsement naming the City of Newport News as an "additional insured." No such insurance shall be required for any special event ~~or parade~~ the primary purpose of which is the exercise of expressive activity and free speech as guaranteed by the First Amendment of the Constitution of the United States, ~~or for any special event or parade which does not include vehicles, or which does not require a full or partial street closure.~~

(f) Review by city manager ~~or designee~~. Upon request made in writing to the city manager, a denied applicant shall be entitled to an informal meeting with the city manager, ~~or his designee~~, to review the prior decision of the ~~director~~ city manager. The meeting shall occur within five (5) business days of the receipt of the request unless there is mutual agreement to a different date. For denial of a permit involving First Amendment activities, the meeting shall occur no later than the end of the next business day. The city manager, ~~or his designee~~, may affirm, reverse, or modify the ~~director's~~ previous decision.

(g) Notice to various officials. Immediately upon the issuance of a permit under this section, the ~~director~~ city manager shall send a copy thereof to the following:

- (1) The chief of police;
- (2) The fire chief;
- (3) The director of public works; and
- (4) ~~Transportation division of the department~~ The director of engineering; and
- (5) The director of parks, recreation and tourism.

(h) Compliance with directions and standards. Every person to whom a permit is issued under this section shall comply with all permit terms and conditions and with all applicable regulations and laws. The special event, ~~parade, or race~~ chairman or other person responsible for

leading the event shall carry the permit upon his person during the conduct of the event and show the permit when requested to do so. It shall be unlawful to violate any requirement or condition of the permit.

- (i) Public conduct.
- (1) Interference. No person shall hamper, obstruct, impede, or interfere with any special event, ~~parade, or race~~ or with any person, vehicle, or animal participating or used in such an special event.
- (2) Driving through special events, ~~races, and parades~~. No driver of a vehicle shall drive through or between the vehicles, persons, or animals comprising a special event, ~~race, or parade~~ except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (3) Parking on the parade or race route or the area of a special event. The director and the police department shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a ~~parade or race~~ or an area in which a special event will occur. The director may post signs to such effect. No person shall be in violation of this subsection for parking on an unposted street unless the person was personally notified by the director or the police department to move the vehicle.

(j) It shall be a violation of this permit for participants in the permitted special event; ~~parade, or race~~ to:

- (1) Engage in stunt riding of motorized vehicles; and
- (2) Throw candy or other items into the crowd.

(k) The granting of any permit under this article shall not eliminate any requirement for any other license or permit which may be prescribed by any other federal, state, or local statutes, ordinances, rules or regulations, or compliance therewith.

Sec. 38-337. Revocation.

(a) A special event, ~~parade, or race~~ permit issued under this article shall be temporary, shall vest no permanent rights in the applicant, and may be immediately revoked by the director city manager, or the chief of police or his representative, if:

- (1) The applicant has made a material falsehood or misrepresentation in the

information supplied;

- (2) The applicant has failed to fulfill a requirement or condition of the permit in a timely manner;
- (3) The check submitted by the applicant in payment of the fee for a permit has been dishonored;
- (4) The applicant requests the cancellation of the permit or cancels the event;
- (5) The activity endangers or threatens persons or property, or otherwise jeopardizes the health, safety or welfare of persons or property;
- (6) The activity conducted is in violation of any of the requirements or conditions of the permit, or any statute, ordinance, rule or regulation; or
- (7) An emergency or the consequences thereof, or a supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety.

(b) Written or verbal notice of such revocation may be given before or during a special event, ~~parade, or race~~ to the applicant, chairman, or leader of the activity, after which the special event, ~~parade, or race~~ shall immediately cease. If verbal notice is given, written notice shall also be given within two (2) business days of the verbal notice to the applicant, chairman, or leader of the activity. All written revocation notices shall set forth the reason or reasons for such revocation and shall be hand-delivered to the applicant, chairman, or leader of the activity, or sent by first-class mail to the applicant's address as set forth in the application.

(c) Upon revocation, the applicant may appeal the determination of the ~~director or the chief of police or representative~~ city manager within ten (10) business days of the date of the written notice to the applicant. Appeal should be made by filing a written notice of appeal to the city manager. The appeal shall be heard in accordance with section 38-336(f) of this article.

Sec. 38-339. Retroactive application of ordinance.

Any permit issued by the city for a special event, ~~parade, or race~~ prior to the adoption of this ordinance, or any amendment thereto, and which has not yet occurred, and any applicant for such permit, or sponsor thereof, shall be subject to the provisions of sections 38-336, 38-337, and 38-338.

Sec. 38-340. City manager may promulgate policies.

In order to implement the provisions of this article, the city manager may promulgate policies and a permit application form that are not inconsistent with this article.