

ORDINANCE NO. 6846-12

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 38, STREETS AND SIDEWALKS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY ADDING THERETO A NEW ARTICLE, NAMELY: ARTICLE XII., SPECIAL EVENTS, PARADES, AND RACES; AND BY REPEALING CHAPTER 26, MOTOR VEHICLES AND TRAFFIC, ARTICLE I., IN GENERAL, SECTION 26-12, PERMIT FOR PROCESSIONS AND PARADES.

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

1. That Chapter 38, Streets and Sidewalks, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained, by adding thereto a new article, namely: Article XII., Special Events, Parades, and Races, as follows:

CHAPTER 38

STREETS AND SIDEWALKS

ARTICLE XII. SPECIAL EVENTS, PARADES, AND RACES

Sec. 38-331. Purpose.

This article is adopted in order to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, to ensure free and safe access to public areas, and otherwise to regulate and control the time, place, and manner of activities that would otherwise threaten the public health, safety, and welfare, while also encouraging and protecting the exercise of rights under the First Amendment of the United States Constitution.

Sec. 38-332. Definitions.

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

- (a) *Director* means the director of the department of engineering or his designee.
- (b) *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.

- (c) *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.
- (d) *Race* means an organized competitive event consisting of people, bicycles, or other vehicular devices, or a combination thereof, upon any street within the city.
- (e) *Sidewalk* means any area in the city dedicated to the public use for purposes of pedestrian traffic.
- (f) *Special event* means a public assembly or block party.
- (g) *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.
- (h) *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, for which a 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 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 conduct;

- (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.

- (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 to cover the administrative costs of processing the permit.
- (b) No application shall be considered complete until the required fee is paid.
- (c) 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 director 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 shall be made to the director, 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 more than one hundred eighty (180) days before the date on which the 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;
- (4) A description of the activities planned during the 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 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 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) days (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 director 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; 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 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.

(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 director may condition the issuance of a permit by imposing reasonable requirements or conditions as are necessary 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 \$500,000 for bodily injury or death to any person or persons, and \$50,000 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 decision of the director. 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 decision.

(g) Notice to various officials. Immediately upon the issuance of a permit under this section, the director 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 of engineering.

(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 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, 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 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. 38-338. Violations.

Any persons convicted of a violation of any provision of this article shall be guilty of a Class 2 misdemeanor.

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 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.

2. That Chapter 26, Motor Vehicles and Traffic, of the Code of the City of Newport News, Virginia, Article I, In General, is hereby amended by repealing section 26-12, Permit for processions and parades.

3. That this ordinance shall be in effect on and after March 1, 2012.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON FEBRUARY 14, 2012

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk