

ORDINANCE NO. _____

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AN ORDINANCE AMENDING CHAPTER 34, ARTICLE II, CODE OF ORDINANCES, CITY OF ELGIN, TEXAS, REGARDING PARADES; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS:

I.

That Chapter 34, Article II, Sections 34-19 and 34-20, Code of Ordinances, City of Elgin, Texas are deleted in their entirety and are hereby replaced with the following:

ARTICLE II. – PARADES

Sec34-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who has filed a written application for a parade permit.

Chief of Police means the Chief of Police or his designated representative.

Free Speech Rights means expressive activity protected by the First Amendment to the Constitution of the United States, provided that such activity is the primary purpose of the parade.

Parade means any assembly, march, demonstration, procession or motorcade upon public streets within the city consisting of three or more persons, animals, or vehicles (or any combination thereof) with an intent of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of traffic upon public streets.

Parade permit means written approval from the chief of police or his designated representative for a parade.

Permittee means the person to whom a parade permit is granted pursuant to this article.

Public street means the entire width of the publicly owned right-of-way.

Sec. 34-2. - Permit required; exceptions.

- (a) *Required.* No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the city.
- (b) *Exceptions.* This section shall not apply to:
 - (1) Funeral processions.
 - (2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities, and will not interfere with the normal movement of traffic.
 - (3) A government agency acting within the scope of its function.

Sec. 34-3. - Filing period.

- (a) Except as provided below, an application for a parade permit shall be filed with the chief of police not less than 30 days nor more than 90 days before the proposed parade date.
- (b) Late applications, where good cause is shown and subject to the standards promulgated in section 34-96, may be considered when filed after the deadline prescribed herein.
- (c) An application for a parade, the primary purpose of which is to express Free Speech Rights, may be submitted not less than 5 working days not including holidays ~~days~~ before the proposed parade date.

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Sec. 34-4 - Application for permit.

- (a) A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by the city, which shall be accompanied with an application fee as currently established or as hereafter adopted by resolution of the city council from time to time. In appropriate circumstances, the City Council shall have the authority to lower or waive the fee.
- (b) The application for a parade permit shall set forth the following information:
 - (1) The name, address, and telephone number of the person seeking to conduct such parade;
 - (2) If the parade is to be held for or by an organization, the name, address, and telephone number of the headquarters of the organization, and the name and address of the authorized representative of such organization;
 - (3) If the parade is to be held by or for any person other than the applicant, the applicant shall file a written statement from that other person showing authority to make the application;
 - (4) If the parade's primary purpose is to express Free Speech Rights, a detail description of the purpose of the parade;
 - (5) The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
 - (6) The date when the parade is to be conducted;
 - (7) The time when such parade will start and terminate, including the time at which units of the parade will arrive in assembly area. Parades may be conducted only between the hours of 7:00 a.m. and 9:00 p.m. daily;
 - (8) The location by streets of the proposed parade route, the assembly area, the initial starting point and the disbanding area for the parade. If the assembly area, starting point and/or disbanding areas are located on private property, the applicant shall submit written permission for the holding of the activity from the owner or his authorized representative of the property;
 - (9) The proposed location for parking area. If the parking area is located on private property, the applicant shall submit written permission from the owner or his authorized representative for allowing parking on the property;
 - (10) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be used;
 - (11) The time at which units of the parade will arrive at the assembly area;

- (12) The interval of space to be maintained between units in the parade;
 - (13) The approximate number of participants in the parade and, if applicable, the number and types of animals and vehicles or floats (including maximum height and length) which will constitute such parade;
 - (14) Any sanitation facilities which may be needed to keep the parade route and assembly areas clean and free from debris and waste;
 - (15) A description of any public facilities or equipment needed for the parade, including first aid stations or portable restrooms;
- Provide a copy of parade entry registration forms including requirements that no candy or other objects may be thrown from parade entries, all vehicles must be in working order and street worthy, all entries must follow traffic laws, and parade participants may walk the parade route and hand candy or other items directly to attendees.
- (16) Copies of permits and agreements –with all city departments other than the police department shall be included with the application for the parade permit; and
 - (17) Any other information which the chief of police shall find necessary under the standards for issuance, hereinafter set forth in section 34-96.

Sec. 34-5. - Standards for issuance of permit.

A parade permit will be issued if, upon review of the application, the chief of police finds that:

- (1) The parade will not substantially interrupt the safe and orderly movement of other traffic near its route;
- (2) The parade will not require the diversion of so great a number of police officers of the city to properly police the parade and the adjacent areas, including parking areas, as to prevent normal police protection of the city;
- (3) The parade will not require the diversion of so great a number of fire protection or emergency medical services (EMS) personnel so as to prevent these services to portions of the city other than that to be occupied by the proposed parade route and adjacent areas;
- (4) The concentration of people, animals and vehicles at assembly points of the parade will not unduly interfere with fire and police protection of, or EMS services to, areas near such parade and assembly area;
- (5) The parade will not interfere with the efficient response movement of firefighting equipment and services en route to a fire;
- (6) The parade is scheduled to move from its point of origin to its point of termination without unreasonable delays en route;
- (7) The conduct of the parade is not reasonably likely to cause injury to persons or property;
- (8) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
- (9) There are sufficient parking places near the site of the parade to accommodate the number of vehicles reasonably expected to be used in the parade or the applicant has made adequate arrangements for off-site parking and transfer of attendees and participants; and

- (10) The applicant has secured the police services, if any, required under this Chapter.

Sec. 34-6. - Contents of permit.

Each parade permit shall state the following information:

- (1) Starting and ending time, including assembly time and cleanup time;
- (2) Minimum and maximum speed;
- (3) A description of the parade route and any assembly or disbanding areas;
- (4) Maximum and minimum interval of space to be maintained between the units of the parade;
- (5) The portions of the streets to be traversed that may be occupied by the parade; and
- (6) Such other information as the chief of police shall find necessary to the enforcement of this article.

Sec. 34-7. - Applicant parking requirements.

- (a) Applicant shall submit evidence that sufficient parking will be available to accommodate the projected number of participants and attendees with a ten percent surplus. If said parking is to be on private property adjacent to the parade, written evidence that the applicant has a right of possession of said property through ownership, lease, license, or other property interest must be provided. When the location is not an established parking area, a plan shall be submitted which will show how the needed parking will be achieved and arranged. The number of parking spaces and layout of parking area, including aisle widths, size of parking spaces and whether parking attendants will be provided, shall be included in the submittal.
- (b) When adequate parking is not available at or immediately adjacent to the site of the parade route, off-site parking may be used. Plans shall be submitted which will show how off-site parking and transfer of attendees will be accomplished.

Sec. 34-8. - Duties of permittee.

A permittee shall comply with all parade permit directions and conditions and with all applicable laws and ordinances.

Sec. 34-9. - Denial or revocation of permit.

- (a) The chief of police may deny a parade permit if:
 - (1) The parade will conflict in time and location with another parade or other special event for which a permit has already been granted;
 - (2) The applicant fails to comply with or the parade will violate an ordinance of the city or any other applicable law;
 - (3) The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a parade permit;
 - (4) The applicant has been convicted of violating this article or has had a parade permit revoked within the preceding 12 months;
 - (5) The applicant has previously failed to pay previous parade fees or police protection

charges;

- (6) The applicant fails to provide proof of a license or permit required by this article or another city ordinance or by state law;
 - (7) The parade, in the opinion of one or more city departmental directors, would severely hinder or compromise the delivery or performance of normal services, including previously scheduled construction or maintenance services, or emergency services or constitutes a public threat;
 - (8) The applicant is unable or unwilling to pay any additional costs as may be required by the chief of police;
 - (9) The applicant fails to submit a complete application or fails to provide any additional information requested by the chief of police; or
 - (10) The proposed date or time for the parade or the location of the parade or parking for such parade would substantially interfere or disrupt the educational activities of a school when such school is in session.
- (b) The chief of police shall have the authority to deny or revoke a parade permit issued hereunder for failure to meet the standards for issuance as set forth in section 34-96.

Sec. 34-10. - Notice of rejection; appeal to city council.

The chief of police shall act upon an application for a parade permit within seven days after the filing thereof. If the chief of police does not approve the application, he shall mail to the applicant a notice of this action stating the reasons for the denial of parade permit within three days after the date of the denial. Any person aggrieved shall have the right to appeal the denial of a parade permit to the city council. The council shall hear the appeal as soon as practicable and its decision shall be final.

Where the primary purpose of the parade is the expression of Free Speech Rights, the application shall be granted or denied by the chief of police within 48 hours of receipt of the application. After a decision, the chief of police shall immediately notify the applicant orally and the city attorney in writing of the decision. If the decision is for denial of the permit, the applicant may, within 24 hours after receipt of said decision, appeal to the city manager, presenting facts why the denial should be reversed. The city manager shall make every effort to hear the appeal as soon as possible, and shall render a written decision to the applicant no more than 24 hours after the time of the appeal hearing.

Sec. 34-102. - Alternative permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the parade on a date, time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this article.

Sec. 34-11. - Tents and temporary structures.

Any parade which includes the use of a stage, seating, tent, canopy, or other temporary structure shall meet the requirements of the city's fire code and building code except that a separate permit is not required when a parade permit has been obtained. Fire lanes for emergency equipment must be provided and the site prepared in a manner so as not to be a fire hazard as determined by the fire chief.

Sec. 34-12. - Sanitary facilities.

Portable type sanitary facilities may be required if determined to be necessary by the chief of police, and an applicant shall be responsible for securing such facilities.

Sec. 34-13. - Animal waste.

Waste from animals used in any such parade shall be removed immediately, by parade organizer or his designee following the completion of such parade. Should animals be kept within the city limits at night, they shall be kept not less than 300 feet from any developed residential or commercial districts.

Sec. 34-14. - Water usage and disposal of wastewater.

- (a) Any parade or related activity desiring use of water from the city water system must coordinate with the utilities department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with ordinances of the city.
- (b) An applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the utilities department.

Sec. 34-15. - Waste collection and solid waste dumpster.

An applicant shall be required to make arrangements for the collection of all waste resulting from such parade, and commercial solid waste dumpsters may be required if determined to be necessary by the chief of police. If required, an applicant shall make arrangements for the provision of such dumpsters with a commercial solid waste disposal company currently having a franchise agreement with the city.

Sec. 34-16. - Loudspeakers.

When loudspeakers will be used in conjunction with the parade, the location and orientation of speakers shall be indicated along with the planned hours of use. Speakers which are positioned so as not to adversely affect an adjacent residential district may be used between the hours of 7:00 a.m. and 9:00 p.m. when a parade permit has been obtained. The chief of police may modify the time limit for use of such speakers when good cause is demonstrated by the applicant. Any use of loudspeakers other than described shall first obtain the approval of the city council.

Sec. 34-17. - City authority over parking.

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 parade route by posting signs to such effect. It shall be unlawful for any person to park or leave unattended any vehicle in violation of the parking restrictions.

Sec. 34-18. - Police services; costs.

- (a) The chief of police shall determine whether and to what extent police services are reasonably necessary for the parade for traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time and date of the parade, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. If additional police services for the parade are deemed necessary by the chief of police, he shall so inform the applicant for the parade permit. The applicant then shall have the duty to secure the police services deemed necessary by the chief of police. All police services shall be provided by the Elgin Police Department unless prior written approval is given by the Chief of Police for the use of outside agencies.
- (b) In the event the chief of police determines, upon a review of the application, that a parade may require the special attention and involvement of city personnel or facilities, the chief of police shall so notify the applicant. In such event, prior to the issuance of a parade permit, the applicant and the chief of police shall agree upon the cost of policing and cleaning and the closure of roads, and the applicant shall pay that amount to the city upon application. Prior to the issuance of a parade permit, the applicant shall agree in writing to pay any additional costs to the city within five days of the date upon which the city informs the applicant of the amount of such additional costs.

Sec. 34-1920. - Offenses.

- (a) A person commits an offense under this article if he:
 - (1) Stages, presents, or conducts any parade without first having obtained a permit as herein provided;
 - (2) Participates in a parade for which the person knows a permit has not been granted;
 - (3) Knowingly fails to comply with any condition of the parade permit;
 - (4) Rides, drives, or causes to be ridden or driven any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the parade permit;
 - (5) Hampers, obstructs, impedes, or interferes with the parade, except when reasonably required for the safe and orderly conduct of the parade, or for the safety and welfare of the general public; or
 - (6) Drives between the vehicles or persons comprising a parade.
- (b) A culpable mental state is not required for the commission of an offense under this article.

II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on this ____ day of _____, 2019.

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CHRIS CANNON, Mayor
City of Elgin, Texas

ATTEST:

AMELIA SANCHEZ, City Secretary