

BILL NO. 5932

ORDINANCE NO. 5819

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF CLAYTON, MISSOURI, BY THE ADDITION OF ONE NEW ARTICLE CONSISTING OF THREE NEW SECTIONS RELATING TO PARADES AND PUBLIC ASSEMBLIES.

WHEREAS, parades and public assemblies can interfere with the movement of emergency vehicles and other traffic and thereby endanger public safety; and

WHEREAS, unregulated public assemblies and parades have been known to be accompanied by civil unrest and disturbance, accompanied in some cases by significant public injuries and property damage including injury and damage caused by the use of various weapons and projectiles hereinafter referenced; and

WHEREAS, courts have recognized the right of municipalities to enact reasonable time, place and manner restrictions related to parades, demonstrations, rallies and assemblies such as those established hereby while respecting and protecting the Free Speech rights of groups and individuals wishing to express their views by such methods; and

WHEREAS, it is reasonable and appropriate for the City of Clayton to enact the regulations hereinafter provided to ensure the delivery of critical emergency services, protect public safety and ensure the safety of individuals and property while also respecting and ensuring Free Speech rights; and

WHEREAS, the regulations hereinafter provided deal with the types of materials and conduct which have the potential to be used as weapons and to inflict personal and property damage and have been so used in other jurisdictions in the past;

THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

Section 1.

Article V of Chapter 20 of the Code of Ordinances is hereby amended by the enactment of a new Article V and three new Sections thereof, initially to be designated as Sections 20-90, 20-91 and 20-92, dealing with parades and assemblies, to read as follows:

Chapter 20 STREETS, SIDEWALKS AND PUBLIC WAYS
ARTICLE V - PARADES AND ASSEMBLIES Sec. 20-90.
Definitions

For purposes of this Article the following terms shall mean as follows:

(1) Parade shall mean a coordinated movement of seven or more pedestrians or vehicles upon the streets within the city, except funeral processions, with an intent of attracting public attention that interferes with, or can reasonably be expected to have a tendency to interfere with, the normal flow or regulation of traffic upon the street.

(2) Public assembly shall mean a gathering outside a structure of more than eight persons for a common purpose at a public place that continues in existence for more than 30 minutes.

Sec. 20-91. Permit required for parades and processions.

(1) No procession or parade shall occupy, march or proceed along any public street, roadway or public property except in accordance with a permit issued by the chief of police and with such other applicable regulations as are set forth in this Code. The chief of police shall issue such permit only after the approval for such issuance is given by the city manager, or his designee, following his receipt of a recommendation for action upon the issuance of such permit by the chief of police.

(2) The written application for such permit shall be filed with the chief of police on a form approved by him sufficiently in advance of the proposed parade or procession to allow adequate arrangements to be made for the proper policing of same. The application shall contain the following:

(a) The name of the applicant, the sponsoring organization, the parade or procession chairman, and the addresses and telephone numbers of each.

(b) The purpose of the parade or procession, the date when it is proposed to be conducted, the location of the assembly area, route to be traveled and the approximate time when the parade, procession or motorcade will assemble, start and terminate.

(c) A description of the individual floats, marching units, vehicles, bands, if any, including a description of any sound amplification equipment to be used.

(d) Such other information as the chief of police may deem reasonably necessary.

(3) Such permits shall set forth conditions reasonably necessary for the protection of the rights, property and personal safety of all parties. Failure to substantially fulfill the conditions set forth in such permit shall render such permit null and void.

(4) Upon issuance of such permit, the police department shall provide police services adjacent to the permit area to regulate vehicular and pedestrian traffic, conditioned upon the availability of a sufficient contingent of on-duty personnel to provide such services without diminishing routine service levels to the entire community.

(5) By applying for and being granted such permit, the applicant shall assume all civil liability arising from conditions, restrictions or omissions on the face of the permit.

(6) Payment of a nonrefundable fee of \$30.00 for the administrative costs involved in the processing of the herein parade or procession permit application shall accompany the filing of the permit application and shall remain in the general revenues of the city without regard to the final action taken by the city manager or his designee.

Sec. 20-92. Parade and assembly prohibitions.

The following prohibitions shall apply to all parades and public assemblies:

(1) it shall be unlawful for any person at any parade or public assembly to carry or possess any weapon, as defined below. For purposes of this chapter, and notwithstanding any other provision of this code, "weapon" means any pistol, rifle, shotgun or other firearm of any kind, whether loaded or unloaded, air rifle, air pistol, paintball gun, paintball rifle, explosive, blasting cap(s), knife, hatchet, ax, slingshot, slungshot, blackjack, metal knuckles, mace, iron buckle, ax handle, chains, crowbar, hammer, shovel, or any club or bludgeon or any other instrumentality used or intended for use as a dangerous weapon.

(2) It shall be unlawful for any person to carry or possess any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.

(3) It shall be unlawful for any person to carry or possess any length of lumber, wood or wood lath unless it is one-fourth inch or less in thickness and two inches or less in width or if not generally rectangular in shape, such object shall not exceed three-quarters inch in its thickest dimension. Both ends of the length of lumber, wood or wood lath shall be blunt and shall not be pointed. Exceptions from this section include:

(a) Lumber or wood used to support or control puppets, so long as the lumber or wood is not detached from the puppets, and

(b) Stilts, defined as two poles with footrests off the ground on which someone balances or walks so long as each stilt does not exceed 15 feet in length and two by two inches in width.

(4) It shall be unlawful for any person to carry or possess any length of metal, plastic or other similar hard or stiff material, whether hollow or solid; provided that hollow plastic does not exceed three-quarter inch in its thickest dimension, does not exceed one-eighth-inch in wall thickness and is not filled with any material, liquid, gas or solid, may be used to support a sign, banner, placard or other similar display; however, both ends of the length of plastic material shall be blunt, and not pointed.

(5) It shall be unlawful for any person to carry or possess glass bottles, glass jars or glass containers of any kind unless such glass container is a vial required to hold medication customarily stored in a glass vial.

(6) It shall be unlawful for any person to carry or possess balloons filled with any material or substance other than air, oxygen or helium. Such materials and substances include, but are not limited to, water, paint, or any other liquid, solid, or other gas.

(7) It shall be unlawful for any person to carry or possess bricks, stones, rocks, or pieces of asphalt or concrete. No person may carry or possess with the intent to unlawfully use any hard materials or substances or pieces of hard materials or substances that are capable of being thrown or projected.

(8) It shall be unlawful for any person to carry or possess spray paint cans.

(9) It shall be unlawful for any person to carry or possess any projectile launcher or other device which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, including, but not limited to, supersoakers and watercannons. Nothing in this subsection is intended to prohibit or restrict those participating in parades, demonstrations, rallies or assemblies from possessing sufficient amount of water or other liquids designed and intended for human consumption during such events.

(10) It shall be unlawful for any person to carry or possess any so called sleeping dragon device, with the intent to use the device to deny or obstruct the public's ability to freely move about on roadways, sidewalks, or into or out of buildings. For purposes of this subsection, a sleeping dragon device shall mean a section of pipe, or a container, filled with weighted material, handcuffs, chains, carabiners or other locking devices used to lock a person or persons to another person or persons or other objects.

Nothing in this section shall prohibit a disabled person from carrying, possessing or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that the person may participate in a parade.

Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

City Clerk

The Chapter, Article, Division and/or Section assignments designated in this Ordinance may be revised and altered in the process of recodifying or servicing the City's Code of Ordinances upon supplementation of such code if, in the discretion of the editor, an alternative designation would be more reasonable. In adjusting such designations the editor may also change other designations and numerical assignment of code sections to accommodate such changes.

Section 3.

It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

Section 4.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen this 11th day of May 2004.



Mayor

Attest:

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