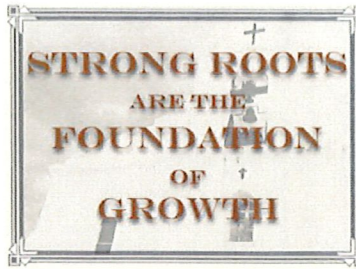


Maya Sanchez  
Mayor

Leticia Miranda  
Aldersperson Pl. 1

David Cantu  
Aldersperson Pl. 2



Miguel Najera Jr.  
Aldersperson Pl. 3

Rebecca Martinez-Juarez  
Aldersperson Pl. 4

George Almanzar  
Aldersperson Pl. 5

## City of San Elizario

### ORDINANCE NO. 1505.01

**AN ORDINANCE REGULATING PARADES CONDUCTED WITHIN THE CITY LIMITS; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, PERMIT APPLICATION PROVISIONS; PERMIT ISSUANCE; PERMIT REQUIREMENTS; REPEALER AND SEVERABILITY, EFFECTIVE DATE; AND CREATING A MISDEMEANOR PUNISHABLE BY A FINE NOT TO EXCEED \$2,000.00.**

- WHEREAS, the citizens of San Elizario often engage in parades on City-owned property and parades enhance the lifestyle and sense of community in the City of San Elizario ("City"); and
- WHEREAS, parades, while a benefit to the City, may raise concerns regarding parking, traffic, crowd management, public health and public safety; and
- WHEREAS, the City Council of the City desires to create and implement regulations to ensure the health and safety of the participants and spectators and to avoid undue disruption of ongoing business, recreational, social or other endeavors in the community; and
- WHEREAS, it is also the intent of the City Council that such regulations provide and protect citizens' right to free speech while addressing the impacts upon public facilities and services as well as public health and safety; and
- WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of San Elizario:

#### **SECTION I. FINDINGS OF FACT**

The foregoing recitals are incorporated fully and expressly set forth herein by reference as findings of fact.

#### **SECTION II. ENACTMENT**

The City of San Elizario hereby adopts this Ordinance enacting regulations, as specified herein, for parades conducted within the City limits.

## SECTION III. PARADE REGULATIONS

### A. Definitions

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

*Applicant:* The person, group, business or entity submitting an application for a permit for a parade or special event.

*City Designee:* The person or official designated by the City to receive and approve an application for a parade or special event permit.

*Float:* Any type of vehicle, motorized and otherwise, for use during a parade, including, but not limited to, cars, trucks, vans, buses, motorcycles, sports utility vehicles (SUVs) or trailers that are pulled by either motorized or nonmotorized vehicles.

*Large parade:* A parade that will involve more than 25 motorized vehicles, nonmotorized vehicles or floats.

*Motorized vehicle:* Any car, truck, van, bus, motorcycle, sport utility vehicle (SUV) or any other automobile to be included in the parade, regardless if the motorized vehicle will be used for the purpose of transporting parade participants.

*Nonmotorized vehicle:* Any vehicle that is not powered by a motor that utilizes electricity, gasoline or any other type of fuel in order to propel the vehicle, including, but not limited to, wagons or carriages drawn by horses, donkeys, mules or oxen.

*Parade:* Any march or procession consisting of people, animals or vehicles, or a combination thereof, except funeral processions, upon any public street or alley, which does not comply with the normal or usual traffic controls.

*Recreational street use:* The use of a public street or alley for purposes that would involve closing a portion of a street, including, but not limited to, block parties, festivals and similar recreational events, both charitable and noncharitable, which do not comply with normal or usual traffic controls.

*Small parade:* A parade that will include no more than 25 vehicles or floats and/or is limited to pedestrians marching or proceeding along a public street, including, but not limited to, marathons, walk-a-thons, bike-a-thons, march-a-thons, neighborhood association parades and other similar processions.

### B. Permit Required; Exceptions

A person or organization promoting or sponsoring a parade or recreational street use involving the proposed use of a public street without compliance with normal or usual traffic controls shall apply for and obtain a permit for such activity from the City. The City's designee shall review all permit applications to identify safety issues, traffic concerns, street closures, adjustments to emergency response routes and crowd safety.

*Exceptions.* This section shall not apply to:

- (1) funeral processions.
- (2) a government agency, including the City, acting within the scope of its function.

### **C. Permit Process: Application; Insurance; Filing; Fees; User Agreement**

A person seeking a parade permit shall file with the City an application on forms provided by the City and shall also submit an application fee as established by the City.

#### **(1) Form and Contents of Application**

A permit application form shall be filed with the city clerk and shall include:

- (a) the name and address of the responsible party and/or promoter, as well as any partner and co-producer assisting in the promotion of the parade or recreational street use;
- (b) a description of the parade route or location of the recreational street use, indicating:
  - i. the number of floats, if applicable;
  - ii. the number of participants;
  - iii. the size and location of any and all performance stages, booths, tents and other temporary structures or shelters, if applicable;
  - iv. the location of the parade staging area, if applicable; and
  - v. any request for street closure to accommodate the event;
- (c) the name and address of the owner of the location of the recreational street use or parade, any assembly, staging or ending area to be used, with a letter from the owner of such site indicating permission to use the location, as well as a statement describing any terms and conditions of the agreement to use the location;
- (d) the date and time that the parade or recreational street use is to take place;
- (e) an estimate of the number of persons expected to attend the parade or recreational street use, including a plan for crowd safety and security;
- (f) a description of planned activities, such as food vendor services, speakers, music and/or entertainers scheduled for the event;
- (g) a full and complete statement describing the responsible party's preparations for the parade or recreational street use to comply with the minimum applicable standards of sanitation, health and fire safety in compliance with all state laws and city ordinances;
- (h) a description of all proposed traffic control to ensure that the parade or recreational street use will be safe for all persons participating and in attendance;
- (i) the signature of the responsible party; and
- (j) payment of nonrefundable filing fees.

#### **(2) Liability Insurance**

- (a) The Applicant shall provide proof of general liability insurance coverage. Such insurance shall be in amounts prescribed by the City designee. Such insurance shall name the City as an additional insured.
- (b) If alcohol is to be sold, insurance coverage must be in the amount of \$1,000,000 as liquor liability insurance, in addition to the general liability insurance requirements.
- (c) Federal, state and local government agencies may submit a statement of self-insurance which shall be acceptable in place of the insurance requirements.

- (3) User Agreement: Costs Reimbursement; Indemnification
- (a) The Applicant shall enter into a user agreement with the City prior to the parade, in which the Applicant agrees to bear all costs of clean up and restoration of City property upon the conclusion of the parade and to reimburse the City for costs related to any damage or use beyond normal wear and tear. The user agreement shall require the Applicant to provide full reimbursement to the City within sixty (60) calendar days of the conclusion of the parade. The assessed reimbursement amount may be appealed to the City Council.
  - (b) Applicant shall assume full responsibility and liability for and indemnifies, defends and holds the City harmless against:
    - (1) All liability, claims for damages, and suits for or by reason of any injury to any person, including death, and damage to any property for every cause in any way connected with the holding of the parade or event, including the preparation, set-up, teardown and cleanup; and
    - (2) All expenses incurred by the City for public safety, sanitation and transportation personnel and resources required to preserve public order and protect public health, safety and welfare, together with any other expenses or costs that may be incurred by the City as a result of the parade or event. The Applicant shall indemnify the City against all charges, expenses and costs, including the City's legal department services incurred on account of or by reason of any such injuries, damages, liability, claims, suits or losses and all damages growing out of the same.
  - (c) Execution of a user agreement shall be waived for first amendment parades that do not involve the use of motor vehicles.
- (4) Fees
- (a) The Applicant shall submit with an application a payment:
    - (i) for a large parade, a nonrefundable filing fee of \$100.00;
    - (ii) for a small parade, a nonrefundable filing fee of \$50.00.
  - (b) Fees may be waived for parades co-sponsored by the City or sponsored by the San Elizario Independent School District or other local civic organizations.
- (5) Filing Period.
- (a) An application for a parade permit shall be filed with the City not less than 30 days, nor more than 90 days before the proposed parade date.
  - (b) Where good cause is shown, late applications may be considered when filed after the deadline.
  - (c) An application for a parade, the primary purpose of which is to express free speech rights, may be submitted not less than five days before the proposed parade date.
  - (d) A permit shall be approved or denied within 15 business days of receipt of the permit application.

#### **D. Standards for Issuance of Permit**

A parade permit will be issued by the City Designee upon finding that:

- (1) The parade will not substantially interrupt the safe and orderly movement of other traffic both vehicular and pedestrian near its route.
- (2) The parade will not prevent or interfere with normal police, fire, or emergency medical service protection of the city and will not interrupt the efficient response of these services.

- (3) The parade is scheduled to move from its point of origin to its point of termination without unreasonable delays en route.
- (4) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance.
- (5) Adequate sanitation and other required health facilities are or will be made available, if necessary.
- (6) 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.
- (7) The Applicant has secured police services required, if any.
- (8) The Applicant has executed the User Agreement.
- (8) The Applicant has provided such general liability insurance coverage as may be required by the City and in the amounts prescribed. Such insurance shall name the City as an additional insured.
- (9) The Applicant has complied with any other special conditions imposed by the City or other authorized official, for the issuance of a parade permit.

## **E. Denial or Revocation of Permit; Appeal**

- (1) A parade permit may be denied if it is determined that:
  - (a) The parade will conflict in time and location with another parade for which a permit has already been granted.
  - (b) The Applicant fails to comply with or the parade will violate an ordinance of the city or any other applicable law.
  - (c) 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.
  - (d) The Applicant has been convicted of violating this article or has had a parade permit revoked within the preceding 12 months.
  - (e) The Applicant has previously failed to pay previous parade fees or police protection charges.
  - (f) The Applicant fails to provide proof of a license or permit required by this article or another city ordinance or by state law.
  - (g) The parade 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.
  - (h) The Applicant is unable or unwilling to pay any additional costs as may be required by the City.
  - (i) The Applicant fails to submit a complete application or fails to provide any additional information requested by the City.
  - (j) 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.
- (2) The City's designee shall have the authority to deny or revoke an issued parade permit for failure to meet the standards for issuance.
- (3) An Applicant denied a parade permit may appeal the denial to the City Council.

## **F. Additional Terms**

- (1) Permit to be Carried, Exhibited  
The parade chairman or other person heading or leading such activity shall be present at the parade at all times and shall carry the event permit upon his/her person during the duration of the parade and present it on demand to any city official or police officer.

(2) Traffic Control and Signs

All traffic control is the responsibility of the permit holder and must meet the standards contained in the Manual on Uniform Traffic Control Devices (MUTCD) part 6 and/or the requirements contained in Appendix A, attached hereto, to the extent there is no conflict.

(3) Use of City Logo or Name

An Applicant may not use or allow its parade to use the words "City of San Elizario," or the City's logo or a combination thereof in any manner that would imply an official endorsement of the parade by the City without written authorization from the City Designee.

(4) Temporary Structures

The use of a stage, seating, tent, canopy, or other temporary structure shall meet the City's fire and building code requirements. Fire lanes for emergency equipment must be provided.

(5) Sanitary Facilities

An Applicant shall be responsible for securing portable type sanitary facilities, if required by the City.

(6) Animal Waste

Waste from animals in a parade shall be removed immediately after the parade.

(7) Water Usage; Disposal of Wastewater

- (a) An Applicant desiring use of water from a city line or faucet must submit a deposit and will be billed accordingly for water use.
- (b) An Applicant shall submit a plan for the disposal of wastewater for City approval.

(8) Waste Collection

An Applicant shall make arrangements for the collection of all waste resulting from a parade, including the use of commercial solid waste dumpsters, if determined to be necessary.

(9) Loudspeakers

Loudspeakers shall be positioned so as not to adversely affect an adjacent residential area and may be used between the hours of 7:00 a.m. and 9:00 p.m. when a parade permit has been obtained. The time may be modified when good cause is shown by the Applicant.

(10) Parking

The City may prohibit or restrict the parking of vehicles along the parade route. It shall be unlawful for any person to park or leave unattended any vehicle in violation of the parking restrictions.

(11) Police Services; Costs

- (a) The City shall determine whether and to what extent police services are reasonably necessary for traffic control and public safety. If additional police services are deemed necessary, the Applicant must secure the additional police services.
- (b) If a parade will require the special attention and involvement of city personnel or facilities, the Applicant shall submit a deposit for the cost of policing, cleaning, the closure of roads, and other deemed services and the Applicant shall pay an amount upon billing by the City for those additional costs.



(12) Security

If deemed necessary, an Applicant shall be required to provide and pay all costs for security upon the basis of one off-duty police officer or private security officer for every ten motorized or nonmotorized vehicles or floats and for every 100 persons expected to attend. If the Applicant desires to use private security officers, the Applicant shall be required to furnish written evidence from a state certified security agency that arrangements have been made to furnish such security officers at the ratio set forth in this section prior to issuance of a permit.

**G. Offense; Penalty**

(1) Failure to Obtain Permit; Offense

- (a) It shall be unlawful for any person or number of persons, delegations, or associations of persons, or for any company, circus, or group to conduct a parade along or upon the streets of the City without first obtaining a permit.
- (b) It is unlawful for any person participating in any event, for which a permit has been issued, to fail to comply with all directions and conditions of such permit and all applicable laws and ordinances.
- (c) An offense under this section is a misdemeanor.
- (d) A culpable mental state is not required for the commission of an offense under this article.

(2) Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense.

SECTION IV. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

SECTION V. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

**PASSED AND APPROVED** this, the 12<sup>th</sup> day of May, 2015, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS

  
Maya Sanchez, Mayor

## **APPENDIX A TEMPORARY SIGNS—PARADES OR EVENTS**

The City may authorize the temporary placement and maintenance of a sign in the public right-of-way for parades and events. In case of conflict with the city's sign regulations, these provisions shall control.

- (a) Sign placement. A sign approved for placement shall not:
  - (1) exceed 16 square feet if placed on the roadside to inform the traveling public;
  - (2) exceed four square feet if used to guide participants in a bicycle or pedestrian parade or event;
  - (3) extend more than three feet past the pavement edge if the sign is a banner; or
  - (4) imitate or resemble any official traffic sign, signal, or device.
  
- (b) Sign material. A sign approved for placement under this article shall be constructed of heavy cardboard, plastic, fabric mesh, or plywood no thicker than 1/4 inch. The sign supports shall be approved by the City.
  
- (c) Sign location. A sign location will be allocated on a first-come, first-served basis. A sign approved for placement shall not be placed more than 24 hours before the parade or event. A banner sign may be installed no more than 30 days before the parade or event. A sign approved for placement shall be placed as far from the edge of the pavement as possible, and shall not be placed:
  - (1) in a location where it may prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic;
  - (2) on any roadway appurtenance, including, but not limited to, bridges, traffic-control devices, official signs, sign supports, light standards, poles and delineators;
  - (3) on any tree or other natural feature less than 18.5 feet above the pavement if the sign is a banner placed over the pavement; or
  - (4) closer to the pavement edge than official highway signs, except when used to guide participants in a bicycle or pedestrian parade or event, which shall be placed no less than one foot from the edge of the pavement.
  
- (d) Text of the sign. A sign should not contain commercial advertising but may identify the sponsor by name and the sponsor's trademark. The name of the sponsor and the sponsor's trademark should be displayed less conspicuously than the activity.
  
- (e) Lighting. A sign shall not display lighting.
  
- (f) Banner supports. A banner not placed on existing utility poles shall be placed on supports which comply with the safety standards of the Texas Manual on Uniform Traffic Control Devices and the barricade and construction standard sheets and must be approved by the City before installation.
  
- (g) Sign removal. All signs shall be removed within 24 hours after the parade or event. Banners should be removed within seven days. A sign not removed is subject to removal by City and the sponsor shall be liable for removal and disposal costs. If a sign becomes a hazard due to inclement weather, inadequate maintenance, accidental damage, or other cause, the City will remove the sign immediately and the sponsor shall be liable for the removal and disposal costs.
  
- (h) Maintenance. The sign shall be maintained by the sponsor in compliance with all the requirements of the application. Signs not maintained in accordance with the application may be removed by the City and the sponsor shall be liable for removal and disposal costs.