

Antonio Araujo
Mayor

Leticia Miranda
Aldersperson Place 1

David Cantu
Aldersperson Place 2



Miguel Najera Jr.
Aldersperson Place 3

Maria Covernali
Aldersperson Place 4

George Almanzar
Aldersperson Place 5

ORDINANCE NO. 1905.01

AN ORDINANCE AMENDING ORDINANCE NO. 1505.01, AS AMENDED BY ORDINANCE NO. 1605.01, REGULATING EVENTS AND PARADES CONDUCTED WITHIN THE CITY LIMITS TO CLARIFY PROCEDURES AND REQUIREMENTS AND ADOPT FEES; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, ADOPTION, ENACTMENT, REPEALER, SEVERABILITY, EFFECTIVE DATE; AND DECLARING THAT A VIOLATION OF THE ORDINANCE IS A MISDEMEANOR OFFENSE WITH A MAXIMUM PENALTY OF \$500.00 GENERALLY, OR MAXIMUM PENALTY OF \$2,000.00 FOR VIOLATIONS RELATING TO FIRE SAFETY OR PUBLIC HEALTH AND SANITATION, FOR EACH OFFENSE AND EFFECTIVE DATE.

RECITALS

WHEREAS, the City Council ("City Council") of the City of San Elizario ("City") adopted Ordinance No. 1505.01, as amended by Ordinance No. 1605.01, creating and , implementing regulations regarding the conduct of parades, recreational street uses and events in the City; and

WHEREAS, the City Council desires to amend the ordinance to further clarify procedures and requirements and adjust and adopt new fees to reflect and to account for changing circumstances and situations and to clarify its application to parades, recreational street uses and events; 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 adopted as facts and incorporated fully herein.

SECTION II. ENACTMENT

The City of San Elizario hereby amends the "Parade Ordinance", now "Parade and Event Ordinance" enacting regulations for parades and events conducted within the City limits by amending the Ordinance in its entirety as depicted in *Attachment A*, attached hereto and incorporated fully herein for all intents and purposes.

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All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

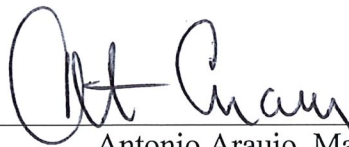
SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion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

SECTION IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

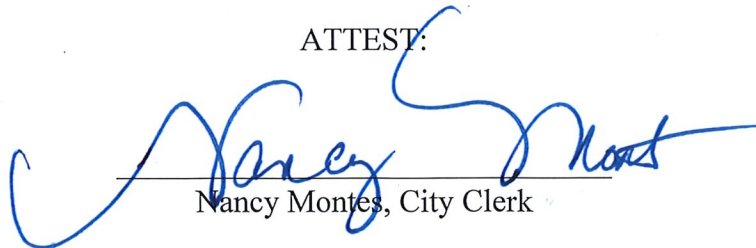
PASSED AND APPROVED this, the 12 day of February, 2019, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS



Antonio Araujo, Mayor

ATTEST:



Nancy Montes, City Clerk

CITY OF SAN ELIZARIO
PARADE AND EVENT ORDINANCE

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 event.

City Designee: The person or official designated by the Mayor or City Administrator to receive and approve an application for a parade or event permit, and his/her designees.

Event: A planned occasion or activity (such as a festival, street fair, art and craft show, rally, concert or other announced public gathering, or other event designed to attract crowds, which may include live or recorded music and the sale of food and/or beverages) that occurs upon any public street, right-of-way or property of any governmental entity, or otherwise may obstruct, delay or interfere with the normal flow of pedestrian or vehicular traffic or does not comply with traffic laws and controls, to include the blocking off of one or more public streets.

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 11 or more than 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 involves closing a portion of a street not to exceed one block in length for a period of time not to exceed 24 hours, including, but not limited to, block parties, neighborhood gatherings 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 10 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, recreational street use, or event involving the proposed use of a public street without compliance with normal or usual traffic controls, or the use of any right-of-way or property owned or operated by any governmental entity (to include but not be limited to the San Elizario Veterans Plaza), 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; or
- (2) a government agency, including the City, acting within the scope of its function; or
- (3) parades or events in which the City is a sponsor.

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

A person seeking a 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. By submitting an application for a permit, the Applicant agrees to comply with all provisions of this ordinance, including but not limited to the obligations in subsection (3) below regarding the obligations for cleaning up, paying the costs and the indemnification of 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, recreational street use, or event;
- (b) a description of the parade route, or the location of the recreational street use or the event 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 or event staging area, if applicable;
 - v. the route for the parade, if applicable;
 - vi. the requested street closure(s) to accommodate the recreational street use or event, or to accommodate a staging area for a parade or event, and proof that all property owners who will be affected by such street closure have been made aware of the proposed closure and the accommodations that will be provided to them for access to their properties;
 - vii. whether the applicant intends to use amplification, and if so, a description of what amplification will be used and how it will be set up so as to comply with all requirements of this ordinance;

- (c) the name and address of the owner of the location(s) of an event, or any assembly, staging or ending area to be used in conjunction with a parade, 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, recreational street use or event is to take place;
- (e) an estimate of the number of persons expected to attend the parade, recreational street use or event, 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, recreational street use or event 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, recreational street use or event will be safe for all persons participating and in attendance;
- (i) the signature of the responsible party; and
- (j) payment of nonrefundable filing fees and the clean-up deposit.

(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) Costs Reimbursement; Indemnification

- (a) The Applicant, by the act of submitting an application agrees to bear all costs of clean-up and restoration of the streets, rights-of-way and any City property upon the conclusion of the parade, recreational street use, or event and to reimburse the City for costs related to any clean-up as well as any damage or use beyond normal wear and tear. Should the applicant be required to reimburse the City for costs relating to any damage or use beyond normal wear and tear, the Applicant shall provide full reimbursement to the City within sixty (60) calendar days of the date of the filing of such amount. The assessed reimbursement amount may be appealed to the City Council.
- (b) Upon the conclusion of the parade, recreational street use or event, the City Designee will inspect the site to determine if the Applicant has satisfactorily cleaned up after such activity. In the event that the Applicant has satisfactorily cleaned up, the entire clean-up deposit will be refunded. In the event that the City Designee determines that the Applicant has not cleaned up or has not satisfactorily cleaned up, the City Designee may authorize clean-up or further clean-up. The City's costs of such clean-up or further clean-up will be deducted from the clean-up deposit and the balance (if any) will be refunded. Should the costs of the clean-up exceed the clean-up deposit, the City may bill the Applicant for the balance due and the Applicant shall pay such amount within 30 days of the date of the billing. The assessed reimbursement amount may be appealed to the City Council by filing a written notice with the City Clerk no later than 15 days after the date of the billing.

- (c) The Applicant, by the act of submitting an application assumes 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, recreational street use 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, recreational street use 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.

(4) Fees

- (a) The Applicant shall submit with an application a payment:
 - (i) for a large parade (11 or more entries), a nonrefundable filing fee of \$100.00;
 - (ii) for a small parade (10 or less entries), a nonrefundable filing fee of \$50.00.
 - (iii) One-day event or recreational street use, a nonrefundable filing fee of \$50.00.
 - (iv) Multi-day event, a nonrefundable filing fee of \$150.00.
 - (v) Clean-up deposit (may be refundable) of \$200.00.
- (b) Fees may be waived or reduced for parades, recreational street uses or events co-sponsored by the City or sponsored by the San Elizario Independent School District or other local civic organizations. Governmental entities shall be required to indemnify the City only to the extent permitted by Texas law.

(5) Filing Period.

- (a) An application for a parade permit or an event permit shall be filed with the City not less than 30 days, nor more than 90 days before the proposed parade or event date.
- (b) An application for a recreational street use shall be filed not less than 15 days, nor more than 90 days before the proposed street use date.
- (c) Where good cause is shown, late applications may be considered when filed after the deadline.
- (d) Notwithstanding subsection (5)(a), 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.
- (e) A permit shall be approved or denied within 15 business days of receipt of the permit application, or as quickly as feasible, for a permit filed or considered under subsections (5)(c) or (d).

D. Standards for Issuance of Permit

A parade, recreational street use or event permit will be issued by the City Designee upon finding that:

- (1) The parade, recreational street use or event will not substantially interrupt the safe and orderly movement of other traffic both vehicular and pedestrian near its route.

- (2) The parade, recreational street use or event 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, recreational street use or event 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, recreational street use or event 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) If amplification will be permitted, the proposed plan for the use of amplification meets the criteria of this ordinance and is not reasonably likely to create a disturbance.
- (8) The Applicant has secured police services required, if any.
- (9) 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.
- (10) The Applicant has complied with any other special conditions imposed by the City or other authorized official, for the issuance of a parade or event permit.

E. Denial or Revocation of Permit; Appeal

- (1) A permit may be denied if it is determined that:
 - (a) The parade, recreational street use or event will conflict in time and location with another parade, recreational street use or event for which an application has already been submitted (which is granted) or a permit has already been granted.
 - (b) The Applicant fails to comply with or the parade, recreational street use or event 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 permit.
 - (d) The Applicant has been convicted of violating this ordinance or has had a permit revoked within the preceding 12 months.
 - (e) The Applicant has previously failed to pay previous permit fees, clean-up or damage charges or police protection charges.
 - (f) The Applicant fails to provide proof of a license or permit required by this ordinance or another city ordinance or by state law.
 - (g) The parade or event 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 or the location or parking for the event, recreational street use or parade or the use of amplification during such activity would substantially interfere or disrupt the educational activities of a school when such school is in session.

- (2) The request to use amplification as part of a permit request shall be considered separately and may be separately denied if it is determined that the proposed plan for the use of amplification does not meet the criteria of this ordinance or is reasonably likely to create a disturbance.
- (3) The City's designee shall have the authority to deny or revoke an issued permit for failure to meet the standards for issuance.
- (4) An Applicant denied a permit may appeal the denial to the City Administrator.

F. Additional Terms

- (1) Permit to be Carried, Exhibited
The Applicant or other person heading or leading such activity shall be present at the parade, recreational street use event at all times and shall carry the event permit upon his/her person during the duration of the parade or event and present it on demand to any city official or police officer.
- (2) All vendors selling food or merchandise at an event shall have all State, City or health permits and licenses (or copies thereof) for such sales displayed at their booth or table.
- (3) Traffic Control and Signs
All traffic control and use of signs 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.
- (4) Use of City Logo or Name
An Applicant may not use or allow its parade, recreational street use event 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.
- (5) Temporary Structures
The use of a stage, seating, tent, canopy, or other temporary structure shall meet the City's and/or El Paso County Emergency Services District No. 2's fire and building code requirements. Fire lanes for emergency equipment must be provided. The City Designee may require the applicant to provide proof of compliance with any requirements imposed by the El Paso County Emergency Services District No. 2 on the use of any temporary structures. Stakes, poles or other items used in the construction may not be inserted into any asphalt or paving during the set up or construction of any temporary structure and the Applicant shall be responsible to ensure compliance with this requirement. The City is entitled to recover any damages from the Applicant caused by the setting up, use or demolition of a temporary structure as provided in Section C of this ordinance.
- (6) Sanitary Facilities
An Applicant shall be responsible for securing portable type sanitary facilities, if required by the City.

- (7) Animal Waste
An Applicant shall be responsible for the removal of waste from animals in a parade or at a recreational street use event immediately upon its conclusion.
- (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 and other amplification (when permitted)
An Applicant shall be responsible for the positioning of loudspeakers 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 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 or event 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
(a) 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.
(b) The Applicant for a multi-day event shall be responsible for securing the site during non-operating times and the City is not liable for any theft or damage occurring at any time during the event.
(c) For an event at the San Elizario Veterans Plaza, the Applicant shall comply with the instructions of the Mayor, City Administrator or the City Designee regarding the opening and closing of the locked gates before, during and after the event.

G. Offense; Penalty

(1) Violation

A person who violates this Ordinance commits an offense. A person violating any provision of this Ordinance is subject to prosecution for criminal violations as well as suit for injunctive relief.

(2) Criminal and Civil Penalties

(a) Criminal Prosecution

A person violating any provision of this Ordinance shall, upon conviction, be fined a sum of \$500, and up to \$2,000.00 if the violation also involves fire safety, zoning or public health and sanitation including dumping of refuse. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

(b) Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to, the following:

- i. injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
- ii. a civil penalty up to \$500.00 a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- iii. other available relief.

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 ordinance 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.