

ORDINANCE NO. 4202

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING CHAPTER 13.54 REGARDING SPECIFIC EVENTS TO PROHIBIT WEAPONS AT PARADES AND PROTESTS

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Findings.

A. It is imperative that individuals engaging in peaceful expressive public activity, and law enforcement personnel dedicated to protecting such activity, be allowed to do so without suffering injury.

B. Of late, groups and individuals attending or participating in public protests committed unlawful and/or violent acts during demonstrations and rallies using weapons brought to the event, or using otherwise ordinary items as weapons. Violence between demonstrators and counter-demonstrators, and violence against law enforcement personnel has erupted during recent events in Charlottesville and St. Louis, as well as cities in California, such as Berkeley and Laguna Beach.

C. On occasion, individuals, acting alone or in concert with others, have used improvised weapons to inflict injury on others, including law enforcement personnel responding to these events, thereby posing a real and serious threat to life and safety.

D. A primary mission of the City Council is to preserve public safety, protect public and private property, and prevent damage to City facilities while fairly balancing the rights of persons to freedom of speech and peaceful assembly during demonstrations, rallies, and protests on public property.

E. Various improvised items have been used to injure attendees and harm or incapacitate law enforcement officers, including wood and metal pipes, poles, bats, chains, projectiles (such as rocks, concrete, pellets and ball bearings), glass bottles and containers filled with flammable or noxious substances, and aerosol sprays deployed to cause flames or attack olfactory systems.

NOW, THEREFORE, the City Council of the City of Huntington Beach does ordain as follows:

SECTION 1. The definition of "Specific Event" at Section 13.54.010 of the Huntington Beach Municipal Code is amended to read as follows:

"Specific event" means the temporary use of public property, including, but not limited to, streets, beaches, and parks for any purpose including, but not limited to, events such as art shows, fund-raising events, sidewalk sales, amusement attractions, walkathons, marathon runs, block parties, parades, demonstrations, rallies, protests, picket lines, public assemblies, performances, weddings, company events and sporting events, or any combination thereof. This

Chapter has no application to events that are conducted on private property.

SECTION 2. Section 13.54.110 of the Huntington Beach Municipal Code is amended to read as follows:

A. Any application received after the deadlines established in Section 13.54.040 is a late application. The Director may consider any permit application filed less than 90 days prior to the time requested for holding a Specific Event.

B. The Director shall accept a late application if he/she finds that:

1. The proposed event is in response to an occurrence whose timing did not reasonably allow the applicant to file a timely application; and
2. The imposition of the time limitations would place an unreasonable restriction on the free speech rights of the applicant.

C. If the Director finds both of the conditions of Subsection B are present, he/she shall accept and process the Specific Event application in accordance with this Chapter, unless it does not meet the criteria set forth in Section 13.54.040, violates Section 13.54.140, or there is insufficient time for the City to make necessary preparations for traffic control or to protect the public safety prior to the proposed date.

SECTION 3. Section 13.54.135 is added to the Huntington Beach Municipal Code to read as follows:

13.54.135 – Prohibition on carrying specified items or articles while attending Specific Event.

A. No person, unless authorized by a valid permit or license from a government agency, shall carry or possess the following items or articles while attending or participating in any parade, demonstration, rally, protest, picket line, public assembly or other Specific Event:

1. Weapons such as firearms, knives, swords, sabers or other bladed devices, axes, hatchets, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet or BB guns, conducted electrical weapons (CEWs), including, but not limited to, Tasers or stun guns, metal/composite/ wooden knuckles, or any chain greater than 20 inches in length or greater than 1/4 inch in diameter. This subdivision also includes toy or replica firearms unless such toy or replica is florescent colored or transparent.
2. Baseball or softball bats, regardless of composition or size
3. Any lengths of lumber or wood, regardless of dimension.
4. Any length of metal or plastic pipe.
5. Any aerosol spray, tear gas, mace, pepper spray or bear repellant.

6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism.

7. Balloons, bottles or any other container such as water cannons or super-soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly.

8. Glass bottles, whether empty or filled.

9. Open flame torches, lanterns or other devices that utilize combustible materials such as gasoline, kerosene, propane or other fuel sources.

10. Shields made of metal, wood, hard plastic or any combination thereof.

11. Bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings.

B. Notwithstanding Subsection A, signs, posters, banners, plaques or notices may be carried and presented during the Specific Event, provided they are constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than 1/4 inch in thickness. Signs, posters banners, plaques and notices may be mounted on any length of lumber, wood, or wood lath that is less than 1/4 inch or less in thickness and 2 inches or less in width, or if not generally rectangular, it shall not exceed 3/4 inch in its thickest dimension. Alternatively, the signs, posters, banners or notices may be mounted on solid or hollow plastic pipe not exceeding 3/4 inch in its thickest dimension and not exceeding 1/8 inch in wall thickness, and not filled with any material, liquid, gas or solid. Both ends of any wood or plastic pipe permissible under this Subsection shall be blunt.

C. When feasible, excluding exigent circumstances, law enforcement personnel shall issue a warning before enforcing the provisions of this Section. Such warning shall be sufficient if provided orally, by posted signs or by amplified announcement.

D. Authorized peace officers, or employees, agents or representatives of a Government Agency, shall be exempt from the provisions of this section when such officers, employees, agents or representatives of the said Government Agency are engaged in official business of the Government Agency. In addition, persons permitted or authorized by a Government Agency through a valid official permit or license to carry concealed weapons, are also exempt from this section.

E. Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may participate in a public protest, demonstration, rally, picket line or public assembly.

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not

affect the validity of this entire Ordinance or any of the remaining portions hereof. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 5: This Ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2020.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

for City Attorney *WW*

REVIEWED AND APPROVED:

INITIATED AND APPROVED:

City Manager

Police Chief

Title 13 PUBLIC PROPERTY

13.54.010 Definitions

“**Director**” refers to the Director of Community Services Department and/or his/her designee.

“**Fourth of July Parade**” is that annual parade sponsored by the City of Huntington Beach.

“**Parade**” means any march, parade, procession or public assembly consisting of persons or animals or vehicles or any combination thereof, upon any public or quasi-public street, road, highway, sidewalk, alley, park, parkway, pier, beach, building or other public or quasi-public place, which obstructs or unreasonably interferes with the free passage of vehicular traffic or pedestrian travel.

“**Parade route**” means the entire route of a parade as approved by the director.

“**Parkway**” means that area between the edge of the roadway and the adjacent property line excluding that area occupied by the sidewalk. Parkway shall also include any area within a roadway which is not open to vehicular travel.

“**Public property**” includes, but is not limited to, sidewalks, parkways, streets, and medians.

“**Roadway**” means that portion of a street improved, designated, or ordinarily used for vehicular travel.

“**Rope**” is any rope, ribbon, string, line or other device used to delineate a public area for parade viewing by private parties.

“**Seat**” is any common chair, stool, folding chair, folding stool, bench or similar device whose purpose is seating.

“**Sidewalk**” means any surface provided for the exclusive use of pedestrians.

“**Specific event**” means the temporary use of public property, including, but not limited to, streets, beaches, and parks for any purpose including, but not limited to, events such as art shows, fund-raising events, sidewalk sales, amusement attractions, walkathons, marathon runs, block parties, parades, demonstrations, rallies, protests, picket lines, public assemblies, performances, weddings, company events and sporting events, or any combination thereof. This ~~e~~Chapter has no application to events that are conducted on private property.

“**Street**” means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys, and sidewalks.

“**Structure (including grandstand)**” is that which is framed or erected. “Grandstand” is a structure whose primary purpose is seating

13.54.110 Permit—Late Applications

A. Any application received after the deadlines established in Section 13.44.040 is a late application. The ~~d~~Director may consider any permit application filed less than 90 days prior to the time requested for holding a Specific Event.\

B. The Director shall accept a late application if he/she finds that:

1. The proposed event is in response to an occurrence whose timing did not

reasonably allow the applicant to file a timely application; and

2. The imposition of the time limitations would place an unreasonable restriction on the free speech rights of the applicant.

C. If the Director finds both of the conditions of Subsection B are present, he/she shall accept and process the Specific Event application in accordance with this Chapter, unless it does not meet the criteria set forth in Section 13.54.040, violates Section 13.54.140, or there is insufficient time for the City to make necessary preparations for traffic control or to protect the public safety prior to the proposed date.

13.54.135 – Prohibition on carrying specified items or articles while attending Specific Event

A. No person, unless authorized by a valid permit or license from a government agency, shall carry or possess the following items or articles while attending or participating in any parade, demonstration, rally, protest, picket line, public assembly or other Specific Event:

1. Weapons such as firearms, knives, swords, sabers or other bladed devices, axes, hatchets, ice picks, razor blades, nunchucks or martial arts weapons of any kind, box cutters, pellet or BB guns, conducted electrical weapons (CEWs), including, but not limited to, Tasers or stun guns, metal/composite/ wooden knuckles, or any chain greater than 20 inches in length or greater than 1/4 inch in diameter. This subdivision also includes toy or replica firearms unless such toy or replica is florescent colored or transparent.
2. Baseball or softball bats, regardless of composition or size
3. Any lengths of lumber or wood, regardless of dimension.
4. Any length of metal or plastic pipe.
5. Any aerosol spray, tear gas, mace, pepper spray or bear repellant.
6. Any projectile launcher or other device, such as a catapult or wrist rocket, which is commonly used for the purpose of launching, hurling or throwing any object, liquid, material or other substance, whether through force of air pressure, spring action or any other mechanism.
7. Balloons, bottles or any other container such as water cannons or super-soakers, filled with any flammable, biohazard or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses, with intent to throw, drop, pour, disperse, deposit, release, discharge or expose the same in, upon or about any demonstration, rally, protest, picket line or public assembly.
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10. Shields made of metal, wood, hard plastic or any combination thereof.

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B. Notwithstanding Subsection A, signs, posters, banners, plaques or notices may be carried and presented during the Specific Event, provided they are constructed solely of soft material, such as cloth, paper, soft plastic capable of being rolled or folded, or cardboard material no greater than 1/4 inch in thickness. Signs, posters banners, plaques and notices may be mounted on any length of lumber, wood, or wood lath that is less than 1/4 inch or less in thickness and 2 inches or less in width, or if not generally rectangular, it shall not exceed 3/4 inch in its thickest dimension. Alternatively, the signs, posters, banners or notices may be mounted on solid or hollow plastic pipe not exceeding 3/4 inch in its thickest dimension and not exceeding 1/8 inch in wall thickness, and not filled with any material, liquid, gas or solid. Both ends of any wood or plastic pipe permissible under this Subsection shall be blunt.

C. When feasible, excluding exigent circumstances, law enforcement personnel shall issue a warning before enforcing the provisions of this Section. Such warning shall be sufficient if provided orally, by posted signs or by amplified announcement.

D. Authorized peace officers, or employees, agents or representatives of a Government Agency, shall be exempt from the provisions of this section when such officers, employees, agents or representatives of the said Government Agency are engaged in official business of the Government Agency. In addition, persons permitted or authorized by a Government Agency through a valid official permit or license to carry concealed weapons, are also exempt from this section.

Nothing in this section shall prohibit an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may participate in a public protest, demonstration, rally, picket line or public assembly