

# Supplemental Material

For

## City of Sacramento

City Council

Housing Authority

Redevelopment Agency

Economic Development Commission

Sacramento City Financing Authority

## Agenda Packet

**Submitted:** November 29, 2004

**For the Meeting of: November 30, 2004**

- Additional Material
- Revised Material

**Subject:** Attachments to Item 13.2 - Parade and Park Regulations Report - were omitted. Attachment 1B and the Current Parade Regulations are attached as pages 11-20



Approved By: \_\_\_\_\_

Please include this supplemental material in your agenda packet. This material will also be published to the City's Intranet. For additional information, contact the City Clerk Department at Interim City Hall, 730 I Street, Suite 211, Sacramento, CA 95814-2671 - (916) 808-7200.

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

AN ORDINANCE REPEALING AND REENACTING, AS AMENDED, SECTION 12.48.090 OF CHAPTER 12.48 OF TITLE 12 OF THE CITY CODE PERTAINING TO REASONABLE TIME, PLACE AND MANNER RESTRICTIONS CONCERNING OBJECTS AND MATERIALS THAT MAY BE POSSESSED, CARRIED OR USED IN PARADES AND DEMONSTRATIONS; AND REPEALING AND REENACTING, AS AMENDED, SECTION 12.48.030 OF CHAPTER 12.48, AND SECTION 12.72.065 OF CHAPTER 12.72, OF TITLE 12 OF THE CITY CODE PERTAINING TO THE PROCESSING OF PARADE PERMITS AND PERMITS FOR THE USE OF CITY PARKS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section One

The recitals, findings and purposes set forth in Sections 1 and 2 of Ordinance No. 2003-026, and the recitals, findings and purposes set forth in Sections 1 and 2 Ordinance No. 2003-028, are incorporated by reference as if set forth fully herein.

Section Two

Section 12.48.090 of Chapter 12.48 of Title 12 is hereby repealed and reenacted as amended to read as follows:

**Section 12.40.090 Parade and Demonstration Equipment Prohibited**

A. The following prohibitions shall apply to all parades.

1. It shall be unlawful for any person to carry or possess any weapon, as defined herein, notwithstanding any other definition of the term "weapon" set

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forth in this City Code.

a. 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 or slungshot blackjack, metal knuckles, mace, iron buckle, baseball bat, ax, ax handle, chains, crowbar, hammer, shovel, stick, pole or other club or bludgeon or any other instrumentality customarily used or intended for probable use as a dangerous weapon.

b. Exceptions:

i. The prohibition on possession or carrying of weapons shall not apply to law enforcement officers, soldiers of the United States Armed Forces and the California National Guard.

ii. Firearms: Notice: Inspection: Notwithstanding subsection (1) above, unloaded firearms shall be permitted, provided:

a) the application for the parade permit indicates that the parade will include participants carrying or possessing unloaded firearms;

b) the parade permit is filed not less than fifteen (15) days prior to the date of the event; and

c) the unloaded firearms shall be presented for inspection by City police officers at the starting point of the parade not less than one (1) hour prior to the time the parade is scheduled to commence [or at such other time on the day of the parade as designated by the City when granting the permit. The purpose of the inspection is to ensure that the firearm is lawful and unloaded, and the police officers shall either mark the firearm or, alternatively, provide the person carrying the firearm with written certification, to indicate that the firearm has been inspected and its possession by the parade participant permissible. For purposes of this exception, "firearm" shall mean any pistol, rifle or shotgun or other lawful firearm of any kind.

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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, cardboard, styrofoam or foamboard and is no greater than one-third) inch (1/3") ~~one-quarter (1/4")~~ 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:~~

3. It shall be unlawful for any person to carry or possess any length of pipe made of metal, PVC or plastic, whether hollow or solid ~~or other similar hard or stiff material~~; provided that hollow PVC or plastic pipe that does not exceed ~~three quarter's inch~~ one inch in diameter, does not exceed one-eighth inch (1/8") 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 PVC or plastic pipe shall be blunt and ~~not pointed.~~

4. It shall be unlawful for any person to carry or possess glass bottles, glass jars or glass containers of any kind.

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

6. It shall be unlawful for any person to carry or possess bricks, stones, rocks, pieces of asphalt or concrete that are more than one-half inch in diameter, or if not generally round, that exceed three quarter's inch in the thickest dimension ~~or pieces of other similar hard materials or substances that are capable of being thrown or projected.~~

~~7. It shall be unlawful for any person to carry or possess solid golf balls, ball bearings, marbles, paint balls, solid balls or other solid shapes made of rubber, plastic, metal, wood or any other similar hard substance, including batteries; provided that nothing is intended to prohibit the possession of bicycles, wheelchairs and other similar devices that include ball bearings or other as part of their structure; and, provided further, that nothing is intended~~

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~~to prohibit the possession of electronic, electrical or other devices that are battery-operated. The purpose of this subsection is to prohibit the possession of materials or devices that can be thrown or projected and can or may cause, or have the potential for causing, significant personal or property damage.~~

7. It shall be unlawful for any person to carry or possess spray paint cans.
  8. 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 amounts of water or other liquids designed and intended for human consumption during such events.
  9. It shall be unlawful for any person to carry, possess or wear any operational gas mask or similar device designed to filter all air breathed and that would protect the respiratory tract and face against irritating, noxious or poisonous gases. For purposes of this subsection, an operational gas mask or similar device means a gas mask or filtering device that is equipped with all necessary equipment to be functional and capable of filtering the air when worn by a person. Nothing in this section is intended to prohibit the wearing of bandanas, masks, including non-operational gas masks, costumes, facial or head coverings or other similar devices that may block or obscure the identity of the wearer but are not designed to filter, or are not functionally capable of filtering, the air breathed by the wearer in the same or similar manner as a gas mask.
  10. It shall be unlawful for any person to carry, possess or wear a body vest as that term is defined in Penal Code Sec. 12022.2.
- B. 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.
- C. Nothing in Subsection A 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 Subsection A is to prohibit the carrying or possession of items and materials that have the potential to be used as

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weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

The provisions of Subsection A shall be construed narrowly to prohibit the use or possession of the items listed therein, but not to prohibit the use or possession of other items by parade participants, including but not limited to items associated with the expression of ideas, such as masks, costumes or puppets. Nothing in Subsection A shall be construed to restrict or interfere with the right to use cameras, tape recorders and other audio and video devices to document or record events occurring at a parade or demonstration.

Further, nothing in Subsection A shall be construed to prohibit the carrying, possession or use of musical instruments by participants in a parade.

- D. Notwithstanding Section 12.48.070, a violation of this section shall be punishable as a misdemeanor.

### **Section Three**

Section 12.48.030 of Chapter 12.48 of Title 12 is repealed and reenacted, as amended, to read as follows:

1. The City Manager or designee shall act on all applications in the following manner:
  - A. Applications received not less than fifteen (15) days before the proposed parade shall be acted upon within seven (7) days of receipt of a completed application.
  - B. Applications received not less than ten (10) days before the proposed parade shall be decided not later than 72 hours before the proposed parade.
  - C. Applications for spontaneous parades involving free speech rights and which are occasioned by news or affairs coming into public knowledge within ten (10) days of the date of the proposed parade shall be acted upon within five days of receipt of a completed application; provided that if the date of the proposed parade is less than seven (7) days but three (3) or more days from the date of the application, the application shall be acted upon within 2 days of the date of receipt of the application. If the date of the proposed parade

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is less than three days from the date of the application, the application shall be acted upon within 24 hours or not later than six (6) hours of the scheduled start time of the parade, whichever is earlier. No application shall be accepted for a proposed parade scheduled for less than 24 hours from the time of filing of the application. Given the expedited basis for consideration of applications for spontaneous parades, there shall be no appeal from the decision of the City Manager or designee.

For purposes of this section, "free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, provided that such activity is the primary purpose of the event.

2. Exception: Spontaneous parades of 75 or fewer participants: Notwithstanding subsection 1 above, no permit shall be required for spontaneous parades of seventy-five (75) or fewer participants. The restrictions set forth in Section 12.40.090 on items that may be possessed or carried shall apply to spontaneous parades of 75 or fewer participants undertaken pursuant to this subsection 2.

#### **Section 4**

Section 12.72.065 of Chapter 12.72 of Title 12 of the City Code is repealed and reenacted, as amended, to read as follows:

#### **Section 12.72.065 Spontaneous Use of a City Park**

Applications for spontaneous use of a City park involving free speech rights and which are occasioned by news or affairs coming into public knowledge within ten (10) days of the date of the proposed use of the City park shall be processed in the same manner as applications for spontaneous parades under Section 12.48.030 of Chapter 12.48 of Title 12 of this code.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

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MAYOR

ATTEST:

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Chapter 12.48

PARADES

Sections:

- 12.48.010 "Parade" defined.
- 12.48.020 Permit—Application.
- 12.48.030 Permit—Action on application.
- 12.48.040 Permit—Denial or revocation.
- 12.48.050 Alternative times and sites.
- 12.48.070 Unlawful conduct.
- 12.48.080 Unlawful participation.
- 12.48.090 Parade and demonstration equipment prohibited.

12.48.010 "Parade" defined.

"Parade" means any march, demonstration, procession or event consisting of persons, animals or vehicles or combination thereof upon any public street, sidewalk or alley which does not comply with normal and usual traffic regulation or controls. (Prior code § 38.12.150)

12.48.020 Permit—Application.

A. Any person desiring to conduct a parade, except as provided in Section 12.48.060 of this chapter, shall file an application with the city manager not less than ten (10) days prior to the proposed assembly time for the parade.

B. Such application shall contain:

1. The name of the applicant, the sponsoring organization, the parade chairman and the addresses and telephone numbers of each; the assembly area, disbanding area and the route to be travelled; the assembly time, and the starting time.

2. So far as reasonably practicable, the disbanding time; the maximum parade length; the total number of bands, sound vehicles or musical units, if any, their type and number of members in each unit; the total number of marching units, if any, their type and the number of members in each unit; the number of animals, if any, and type; the number of floats, if any, their size, type and how powered; and the space between the units and their speed.

C. If such a parade is designed to be held by and on behalf of or for any organization other than the applicant, the applicant for such permit shall file a communication in writing from such organization, authorizing the applicant to apply for such permit on its behalf. (Prior code § 38.12.151)

12.48.030 Permit—Action on application.

The city manager shall act on all applications in the following manner:

A. Applications received not less than fifteen (15) days before the proposed parade shall be acted upon within seven days of receipt of a completed application.

B. Applications received not less than ten (10) days before the proposed parade shall be decided not later than seventy-two (72) hours before the proposed parade.

C. Applications for spontaneous parades involving free speech rights and which are occasionally by news or affairs coming into public knowledge within ten (10) days of the date of the proposed parade shall be acted upon within five days of receipt of a completed application; provided that if the date of the proposed parade is less than seven days but three or more days from the date of the application, the application shall be acted upon within two days of the date of receipt of the application. If the date of the proposed parade is less than three days from the date of the application, the application shall be acted upon within twenty-four (24) hours or not later than six hours of the scheduled start time of the parade, whichever is earlier. No application shall be accepted for a proposed parade scheduled for less than twenty-four (24) hours from the time of filing of the application. Given the expedited basis for consideration of applications for spontaneous parades, there shall be no appeal from the decision of the city manager.

For purposes of this section, "free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, provided that such activity is the primary purpose of the event. (Ord. 2003-028 § 2; prior code § 38.12.152)

12.48.040 Permit—Denial or revocation.

A. Permits may be denied or revoked by the city manager only upon his or her determination that one or more of the following conditions exist:

1. That more persons would be seriously inconvenienced by the event than would participate in it;

2. That the number of persons who would be less than seriously inconvenienced would be grossly disproportionate to the number of participants;

3. That the parade will occur between the hours of six-thirty a.m. to nine-thirty a.m. or four p.m. to seven p.m. Monday through Friday;

4. That the parade will exceed three hours duration;

5. That the parade will unduly interfere with ingress to, egress from or travel on a freeway or state designated highway;

6. That the applicants, after receiving a permit, have refused to inform the city of the general message or purpose of the demonstration;

7. That a significant number of the demonstrators have a specific intent, manifested by specific plans, to engage in or provoke violence;

8. That a fully enforced general curfew will be in existence at the time and place proposed for the demonstration;

9. That the applicants have failed to make a timely application for a permit, and could have done so since their parade was not in response to an event of obvious importance;

10. That the parade will conflict with a previously scheduled parade.

B. No permit shall be denied or revoked, except in an emergency, without reasonable opportunity for a hearing. (Prior code § 38.12.153)

**12.48.050 Alternative times and sites.**

Any denial or revocation of a permit on the grounds of the unacceptability of the time or place of the proposed parade shall contain a counteroffer of alternative acceptable times and sites. (Prior code § 38.12.154)

**12.48.070 Unlawful conduct.**

No person shall conduct, manage or participate in any parade which is not authorized by a written permit from the city manager. (Prior code § 38.12.156)

**12.48.080 Unlawful participation.**

No person shall knowingly join or participate in any parade conducted under permit from the city manager, in violation of any of the terms of such permit, nor knowingly join or participate in any permitted parade without the consent and over the objection of the permittee, nor in any manner interfere with its progress or orderly conduct. (Prior code § 38.12.157)

**12.48.090 Parade and demonstration equipment prohibited.**

A. The following prohibitions shall apply to all parades.

1. It shall be unlawful for any person to carry or possess any weapon, as defined in this section, notwithstanding any other definition of the term "weapon" set forth in this City Code.

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, sling-shot, slungshot, blackjack, metal knuckles, mace, iron buckle, baseball bat, ax, ax handle, chains, crowbar, ham-

mer, shovel, stick, pole or other club or bludgeon or any other instrumentality customarily used or intended for probable 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 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.

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 pipe that does not exceed three-quarters 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.

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. Prohibited 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 solid golf balls, ball bearings, marbles, paint balls, solid balls or other solid shapes made of rubber, plastic, metal, wood or any other similar hard substance, including batteries; provided that nothing is intended to prohibit the possession of bicycles, wheelchairs and other similar devices that include ball bearings or other as part of their structure; and, provided further, that nothing is intended to prohibit the possession of electronic, electrical or other devices that are battery-operated. The purpose of this subsection is to prohibit the possession of materials or devices that can be thrown or projected and can or may cause, or have the potential for causing, significant personal or property damage.

8. It shall be unlawful for any person to carry or possess bricks, stones, rocks, pieces of asphalt or concrete or pieces of other similar hard materials or substances that are capable of being thrown or projected.

9. It shall be unlawful for any person to carry or possess spray paint cans.

10. 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 amounts of water or other liquids designed and intended for human consumption during such events.

11. It shall be unlawful for any person to carry, possess or wear any gas mask or similar device designed to filter all air breathed and that would protect the respiratory tract and face against irritating, noxious or poisonous gases.

12. It shall be unlawful for any person to carry, possess or wear a body vest as that term is defined in Penal Code Sec. 12022.2.

B. 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.

C. Nothing in subsection A of 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 subsection A 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.

D. Notwithstanding Section 12.48.070, a violation of this section shall be punishable as a misdemeanor. (Ord. 2003-026 § 3; Ord. 2003-024 § 3)