

ORDINANCE NUMBER: _____

AMENDING CHAPTER 19

**AN ORDINANCE AMENDING CHAPTER 19 OF THE CHARLOTTE CITY CODE
ENTITLED "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES"**

WHEREAS, the City of Charlotte has a significant governmental interest in protecting the health, safety and welfare of the general public and preserving the public order; and

WHEREAS, G.S.160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public; and

WHEREAS, the City has a significant governmental interest in maintaining the aesthetics, cleanliness and proper sanitation of city public property; and

WHEREAS, the City has a significant governmental interest in maintaining the safety of persons who use city property; and

WHEREAS, the City has a significant governmental interest in reducing the risk of liability arising from the use of city property.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Section 19-241 is amended as follows:

"Sec. 19-241. Obstructions.

It shall be unlawful to place or maintain an unnecessary temporary or permanent obstruction in the public right-of-way. A temporary obstruction means any object such as a ladder, platform, stage, table, tent, tarp or similar object. The city may require the person who has placed or maintains an obstruction in violation of this section to remove the obstruction and repair or restore the right-of-way within a reasonable period of time, which time shall be set in consideration of the harm or risk created by the obstruction and the effort and expense of removal. In addition, the city may summarily remove an obstruction and charge the expense of the removal, restoration, and repair to the person who placed or maintained the obstruction."

Section 2. Subsections (a), (b), and (g) of Section 19-303 are amended as follows:

"(a) Picketing may be conducted on public sidewalks, at the Old City Hall lawn, the Charlotte-Mecklenburg Government Center plaza, ~~Marshall Park~~, Polk Park, Independence Square Plaza, Arequipa Park, any other city-controlled park, or other city-owned areas normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of the public roadway used primarily for vehicular traffic.

(b) Notwithstanding subsection (a), picketing may not be conducted:

- (1) ~~At the Old City Hall lawn, the Charlotte-Mecklenburg Government Center plaza, Marshall Park, Polk Park, Independence Square Plaza, Arequipa Park, or other city-controlled park during a festival that has been permitted at that particular property or when that property has been otherwise reserved for private use;~~
- (2) (1) On a median strip; and ~~or~~
- (3) (2) At a location directed, focused, or targeted at a particular private residence.

...

(g) Picketers and picketing shall be subject to all applicable local, state and federal laws including, but not limited to:

- (1) The city's noise ordinance;
- (2) The city's handbill ordinance;
- (3) Section 14-225.1 (obstructing justice);
- (4) Section 14-277.2 (weapons);
- (5) Section 14-277.4 (health care facilities); and
- (6) Section 14-288.4 (disorderly conduct).

In addition, it shall be unlawful for any person participating in, affiliated with, or present as a spectator at a picket, other than governmental employees in the performance of their duty, to willfully or intentionally engage in the conduct prohibited by City Code Sec. 19-313(f) or possess any of the items prohibited by City Code Sec. 19-313(g)."

Section 3. The following definitions set forth in Section 19-311 are amended as follows:

"Festival means an outdoor concert, fair, exhibit, promotion, community event, block party, or similar event that is primarily commercial and/or recreational in nature."

"Parade means an athletic event, march, ceremony, pageant, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street. A funeral procession is not a parade."

"Public assembly means:

...

- (2) A festival on the Old City Hall lawn, the Charlotte-Mecklenburg Government Center Plaza, or in ~~Marshall Park~~, Polk Park, Independence Square Plaza, Arequipa Park or any other city-controlled park."

Section 4. Subsections (a), (c), (d), (e), and (f) of Sec. 19-312 is amended as follows:

“(a) *Permit required.* No public assembly or parade is permitted unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section.

...

(c) *Permitting criteria.* An application may be denied or revoked for any of the following reasons:

...

Unless subject to (c)(16), nothing in this section shall authorize the permit official to deny or revoke a permit based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

...

(d) *Costs and fees.* The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers and fire/EMS personnel, or reimbursing the city for the costs of providing on-duty law enforcement officers and fire/EMS personnel, to provide internal festival safety and security ~~and for hiring and paying necessary emergency medical technicians.~~

The permit official, in consultation with the Charlotte-Mecklenburg police and fire departments, shall determine the number of officers and fire/EMS personnel needed to appropriately police street closures and for internal safety and security, ~~and the number of emergency medical technicians needed~~, and the time when such services shall commence and end, taking into consideration the following:

...

(e) *Time and notice of decision.* The permit official shall approve or deny an application within 20 days of receipt. A notice of denial or revocation shall clearly set forth the grounds upon which the permit was denied or revoked and, where feasible, shall contain a proposal for measures by which the applicant may cure any defects in the application or otherwise procure a permit. Where an application is denied because the proposed event would conflict with another event that has or will be approved, the permit official shall propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(f) *Appeals.*

- (1) An applicant may appeal the denial or revocation of an application in writing within ten days after notice of the denial has been received. Within five business days, or such longer period of time agreed to by the applicant, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial or revocation. The applicant shall have the right to present evidence at said hearing. The decision to issue or uphold the denial or revocation shall be based solely on the approval criteria set forth in this section. The appeals official shall render a decision on the appeal within five business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

...”

Section 5. Sec. 19-313 is amended by adding new subsections (e), (f), and (g) to read as follows:

“(e) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at a public assembly or parade, other than governmental employees in the performance of their duties to push, pull or transport any, vehicle, cart, or float, unless the permit for that event specifically provides for the use of that item(s).

(f) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at a public assembly or parade to throw any item unless the permit for the public assembly or parade specifically provides for dispensing items.

(g) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any festival or parade, other than governmental employees in the performance of their duties, to willfully or intentionally possess, carry, control or have immediate access to any of the following:

- (1) A bar, chain, shaft, staff, cable, wire, lumber, or plastic pipe capable of inflicting serious injury to a person if thrown at or struck upon another, except as permitted by City Code Sec. 19-303(d);
- (2) An obstruction object or instrument. Obstruction object or instrument as used in this section means a device commonly known as a “lock box”, “sleeping dragon” arm tube or any of the components of such a device including but not limited to pipes, tubes, wire handcuffs, chains, carabiners, padlocks, bicycle D locks or containers either weighted or not designed to be used as a lock-on;
- (3) A container or object of sufficient weight that may be used as a projectile or contains objects that may be used as a projectile that could inflict serious injury to a person or damage to property;
- (4) An aerosol container, spray gun or soaker device;
- (5) A paint gun, etching materials, spray paint container, liquid paint or marker containing a fluid that is not water soluble;

- (6) A backpack, duffle bag, satchel, cooler or other item carried with the intent to conceal weapons or other prohibited items;
- (7) A glass or breakable container capable of being filled with a flammable or dangerous substance carried with the intent to inflict serious injury to a person or damage to property;
- (8) A sharp or bladed objects such as a box cutter, utility knife, ice pick, axe, or any other object defined in City Code Sec. 15-14;
- (9) A hammer or crow bar;
- (10) Pepper spray, mace or any other irritant carried with the intent to delay, obstruct or resist the lawful orders of a law enforcement officer;
- (11) Body armor, shield, helmet, protective pads, or gas masks carried or worn with the intent to delay, obstruct or resist the lawful orders of a law enforcement officer;
- (12) A mask or scarf worn with the intent to hide one's identity while committing a crime;
- (13) A police scanner;
- (14) Rocks, bottles, objects, bricks or pieces thereof that are of sufficient weight or design as to cause serious injury to a person if thrown at or struck upon another;
- (15) A device used to shoot, hurl or project a missile of any description capable of inflicting serious injury to a person;
- (16) A "sock" or "pocket" containing material of sufficient weight as to cause serious injury to a person if thrown at or struck upon another."
- (17) Fireworks, smoke bombs, sparklers, and stink-bombs.
- (18) An animal unless specifically allowed under the terms of a permit issued in City Code Sec. 19-313 or is a service animal used to assist a person with a disability.

Section 6. This ordinance is effective upon adoption.

Approved as to form

City Attorney