



AN ORDINANCE BY H. LAMAR WILLIS

AN ORDINANCE AMENDING ARTICLE VII OF THE CITY OF ATLANTA CODE OF ORDINANCES, ENTITLED "PARADES" TO ESTABLISH REASONABLE TIME, PLACE AND MANNER REGULATIONS CONCERNING MATERIALS AND OBJECTS THAT MAY BE POSSESSED, CARRIED OR USED BY THOSE PARTICIPATING IN PARADES AND PUBLIC ASSEMBLIES; MORE PARTICULARLY BY AMENDING SECTION 138-232, ADDING A NEW SECTION 138-236 ENTITLED "PARADE AND ASSEMBLY PROHIBITIONS", INCLUDING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City's current parade regulations, which govern parades, demonstrations, rallies and assemblies, were enacted almost thirty (30) years ago; and

WHEREAS, the statutory and judicial laws governing parades, demonstrations, rallies and public assemblies have developed and are significantly different than law as it existed at the time of enactment; and

WHEREAS, current technology, communication and materials available have altered the manner in which such events occur, and the nature and level of the activity of those participating in such events have changed significantly since the enactment of the current regulations; and

WHEREAS, in recent years, civil unrest and disturbances have occurred at parades, demonstrations, rallies and assemblies, accompanied in some instances by significant personal injuries and property damage, including injuries and damage caused by the use of various weapons and projectiles, including some or all of the items specified in Section 2 of this Ordinance; and

WHEREAS, courts have recognized the right of jurisdictions to enact reasonable time, place and manner restrictions related to parades, demonstration, rallies and assemblies, while protecting the First Amendment rights of individuals and groups wishing to express their views by such demonstrations, rallies, and assemblies; and

WHEREAS, the regulations of the City of Los Angeles restricting the size, nature and shape of sign handles were recently upheld by the Ninth Circuit Court of Appeals in the cases of *Vlasak v. Superior Court*, 329 F.3d 683 (9th Cir. 2003); *Edwards v. City of Coeur D'Alene*, 262 F.3d 856 (9th Cir. 2001); and *Foti v. City of Menlo Park*, 146 F.3d 629 (9th Cir. 1998); and

WHEREAS, the City of Atlanta wishes to ensure the safety and security of those viewing, attending, or participating in parades and assemblies, the residents and



businesses, and the public officials and employees responsible for overseeing such events on public property in the City of Atlanta, and to reduce or avoid the possibility of personal injury and property damage; and

WHEREAS, the City of Atlanta recognizes the First Amendment rights of those wishing to express their views, both individually and collectively, on issues addressed at or in future parades, demonstrations, rallies or assemblies; and

WHEREAS, it is appropriate for City Council to enact regulations relating to parades and assemblies to ensure the safety and well-being of individuals and property, while ensuring the First Amendment rights of those wishing to associate and to express their views, both individually and collectively; and

WHEREAS, it is the purpose and intent of the City of Atlanta, in enacting the regulations in Section 2 of this Ordinance, to establish reasonable time, place and manner restrictions for parades and assemblies to ensure the safety and well-being of individuals and property, while at the same time ensuring the preservation of the First Amendment rights of those wishing to associate and to express their views, both individually and collectively; and

WHEREAS, in enacting these regulations, the City is cognizant of recent court decisions that authorize the enactment of reasonable time, place and manner restrictions, and the City is also cognizant of its obligations not to improperly restrict the First Amendment rights of individuals and groups wishing to associate and to express their First Amendment views on any and all issues, and to do so in a robust, vigorous manner; and

WHEREAS, the regulations in Section 2 of this Ordinance restrict only the types of materials that those participating in parades, demonstrations, rallies and assemblies may have in their possession, and do not interfere with their rights of association and expression; and

WHEREAS, the materials restricted or prohibited by Section 2 of this Ordinance have the potential to be used as weapons and to inflict personal and property damage, or to provide protection by preventing permitted law enforcement controls related to those participating in the use of such weapons and the infliction of personal and property damage, and the materials have been used for this purpose in other jurisdictions; and

WHEREAS, it is therefore, reasonable and appropriate to restrict possession of certain materials as a reasonable time, place and manner regulation;



NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA

Section One: The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section Two: Article VII of the City of Atlanta Code of Ordinance, entitled "Parades" is amended in the following particulars, as indicated by the underlined text:

"Sec. 138-232. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parade means any march, ceremony, show, exhibition, pageant, footrace, bicycle race or procession of any kind or similar display in or upon any street, park or other public place in the City conducted by any person, government, or civic organization or other entity.

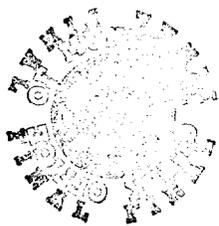
Parade permit means a permit as required by this article.

Public Assembly(ies) shall mean a gathering(s) outside a structure of more than eight (8) persons for a common purpose at a public place that continues in existence for more than thirty (30) minutes.

Sec. 138-236. Parade and Assembly Prohibitions.

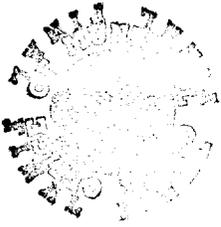
The following prohibitions shall apply to all parades and public assemblies:

- (a) It shall be unlawful for any person at any parade or public assembly to carry or possess any weapon, as defined below. For purposes of this article, and notwithstanding any other provisions 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, blackjack, metal knuckles, mace, iron buckle, ax handle, chains, crowbar, hammer, shovel, or any club, bludgeon or any other instrumentality used, or intended to be used, as a dangerous weapon.
- (b) It shall be unlawful for any person to carry or possess at any parade or public assembly, any sign, poster, plaque or notice unless such sign,



poster, plaque, or notice is constructed solely of a cloth, paper or flexible cardboard material no greater than one-quarter ($\frac{1}{4}$) inch in thickness.

- (c) It shall be unlawful for any person to carry or possess at any parade or public assembly, any length of lumber, wood or wood lath unless it is one-fourth ($\frac{1}{4}$) 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 ($\frac{3}{4}$) inch in its thickest dimension. Both ends of the length of lumber, wood or wood lath shall be blunt and shall not be pointed. Exceptions from this section include (1) lumber or wood used to support or control puppets, so long as the lumber or wood is not detached from the puppets; and (2) stilts, defined as two poles with footrests off the ground on which someone balances or walks, so long as each stilt does not exceed fifteen (15) feet in length and two inches by two inches in width.
- (d) It shall be unlawful for any person to carry or possess at any parade or public assembly, any length of metal, plastic or other similar hard or stiff material, whether solid or hollow; provided that hollow plastic does not exceed three-quarter ($\frac{3}{4}$) inch in its thickest dimension, does not exceed one-eighth ($\frac{1}{8}$) 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 the plastic material shall be blunt, and not pointed.
- (e) It shall be unlawful for any person to carry or possess at any parade or public assembly, glass bottles, glass jars or glass containers of any kind, unless such glass container is a vial required to hold medication customarily stored in a glass vial.
- (f) It shall be unlawful for any person to carry or possess at any parade or public assembly, balloons filled with any material or substance other than air, oxygen or helium. Such materials and substances include, but are not limited to, water, paint, or any other liquid, solid or gas.
- (g) It shall be unlawful for any person to carry or possess at any parade or public assembly, bricks, stones, rocks, or pieces of asphalt or concrete. No person may carry or possess with the intent to unlawfully use any such hard materials or substances or pieces of hard materials or substances capable of being thrown or projected.
- (h) It shall be unlawful for any person to carry or possess at any parade or public assembly, spray paint cans.



- (i) It shall be unlawful for any person to carry or possess at any parade or public assembly, 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, so-called Supersoaker-type water guns and water cannons. 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.
- (j) It shall be unlawful for any person to carry or possess at any parade or public assembly, any so-called "Sleeping Dragon Device", with the intent or ability to use the device to deny or obstruct the public's ability to freely move about on roadways, sidewalks, or into or out of buildings. For purposes of this subsection, a Sleeping Dragon Device shall mean a section of pipe, or a container, filled with weighted material, handcuffs, chains, carabiners or other locking devices used to lock a person or persons or other objects.

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.

Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other federal, state or local law or regulation. The purpose 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 property damage, and whose possession might not otherwise be prohibited by federal, state or local law.

Nothing in this section shall prohibit duly authorized law enforcement officers from carrying or possessing materials, weapons and/or devices used in the performance of law enforcement duties."

Section Three: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed.

Section Four: If any section, paragraph, clause, phrase, or any part thereof, of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section Five: This Ordinance shall become effective IMMEDIATELY after final reading and adoption.

A true copy,

Thanda Dauphin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

MAY 17, 2004
MAY 20, 2004

RCS# 5712
5/17/04
2:10 PM

Atlanta City Council

Regular Session

CONSENT I

CONSENT I PG(S) 1-13 EXCEPT:04-R-0876
04-R-0911 04-R-0835 04-R-0882
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 0
EXCUSED: 0
ABSENT 1

Y Smith	Y Winslow	Y Shook	Y Martin	Y Norwood
Y Starnes	Y Archibong	Y Muller	B Maddox	Y Willis
Y Young	Y Fauver	Y Moore	Y Mitchell	

CONSENT I

3-01-04 Council Meeting	
ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT
1. 04-O-0858	41. 04-R-0813
2. 04-O-0869	42. 04-R-0865
3. 04-O-0372	43. 04-R-0824
4. 04-O-0373	44. 04-R-0825
5. 04-O-0641	45. 04-R-0826
6. 04-O-0642	46. 04-R-0827
7. 04-O-0646	47. 04-R-0828
8. 04-O-0648	ITEMS ADVERSED
9. 04-O-0650	ON CONSENT
10. 04-O-0652	48. 04-R-0829
11. 04-O-0653	49. 04-R-0830
12. 04-O-0656	50. 04-R-0831
13. 04-O-0657	51. 04-R-0832
14. 04-O-0874	52. 04-R-0833
15. 04-O-0488	53. 04-R-0834
16. 04-O-0700	54. 04-R-0836
17. 04-O-0872	55. 04-R-0837
18. 04-O-0660	56. 04-R-0838
19. 04-O-0661	57. 04-R-0839
20. 04-O-0873	58. 04-R-0840
21. 03-R-2228	59. 04-R-0841
22. 04-R-0805	60. 04-R-0842
23. 04-R-0806	61. 04-R-0843
24. 04-R-0808	62. 04-R-0844
25. 04-R-0809	63. 04-R-0845
26. 04-R-0822	64. 04-R-0846
27. 04-R-0859	
28. 04-R-0882	
29. 04-R-0889	
30. 04-R-0369	
31. 04-R-0870	
32. 04-R-0876	
33. 04-R-0815	
34. 04-R-0847	
35. 04-R-0862	
36. 04-R-0863	
37. 04-R-0821	
38. 04-R-0807	
39. 04-R-0811	
40. 04-R-0812	

04-0872
 (Do Not Write Above This Line)

AN ORDINANCE BY H. LAMAR WILKINS

AN ORDINANCE AMENDING ARTICLE VII OF THE CITY OF ATLANTA CODE OF ORDINANCES, ENTITLED "PARADES" TO ESTABLISH REASONABLE TIME, PLACE AND MANNER REGULATIONS CONCERNING MATERIALS AND OBJECTS THAT MAY BE POSSESSED, CARRIED OR USED BY THOSE PARTICIPATING IN PARADES AND PUBLIC ASSEMBLIES; MORE PARTICULARLY BY AMENDING SECTION 138-232. ADDING A NEW SECTION 138-236 ENTITLED "PARADE AND ASSEMBLY PROHIBITIONS", INCLUDING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

ADOPTED BY

MAY 17 2004

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 05/03/04
 Referred To: Public Safety
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

Committee _____
 Date _____
 Chair _____
 Referred to _____

First Reading

25 Committee

Date 2004

Chair [Signature]

Fav, Adv, Hold (see rev. side)
 Other _____

Members

C. T. Mark

Hand Sherk

[Signature]
 Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other _____

Members

A

Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other _____

Members

Refer To

Committee

Date

Chair

Action
 Fav, Adv, Hold (see rev. side)
 Other _____

Members

Refer To

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
 MAY 17 2004
 [Signature]
 RESIDENTIAL PROISM

CERTIFIED
 MAY 17 2004
 [Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED
 [Signature]
 MAY 20 2004
 MAYOR