



# City of San Antonio

## Agenda Memorandum

**File Number:**18-1128

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**Agenda Item Number:** 4.

**Agenda Date:** 3/1/2018

**In Control:** City Council A Session

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**DEPARTMENT:** City Attorney's Office

**DEPARTMENT HEAD:** Andy Segovia

**COUNCIL DISTRICTS IMPACTED:** All

### **SUBJECT:**

First Amendment assembly and procession activities

### **SUMMARY:**

This item amends Article XVII of Chapter 19 of the City Code entitled Parades, Runs, Walks and Related Events, and Section 3-22 of Article II of Chapter 3 of the City Code entitled Commercial and non-commercial activities to make revisions consistent with Council direction to lift as many barriers to free speech as possible.

### **BACKGROUND INFORMATION:**

On February 2, 2017, Councilman Roberto Treviño submitted a CCR on First Amendment assembly and procession procedures. In that CCR, Councilman Treviño tasked the City Attorney with reassessing permitting procedures in public places, and to provide options for potentially easing restrictions for safe, peaceful, and legal demonstrations.

On August 2, 2017, the City Attorney presented his initial review of permitting procedures for First Amendment assembly and procession in public places to the City Council Governance Committee. At that meeting, the City Attorney was instructed by the Governance Committee to meet with the Free Speech Coalition and other concerned citizens regarding the City's parade ordinance. Since September 2017, the City Attorney and other client departments have held numerous face-to-face and phone meetings with the Coalition and other concerned citizens on this matter.

The City Attorney also met with the following client groups who are affected by the parade ordinance or free

speech policies: San Antonio Police Department, Center City Development Operations (CCDO), Transportation and Capital Improvements (TCI), Aviation, and Convention and Sports Facilities (CSF).

City staff compiled its recommendations based on these meetings and presented its recommendations to City Council at the Wednesday, December 13, 2017 B Session. Some of the recommendations presented are currently codified within the existing parade and airport ordinances, while the other recommendations are policy and departmental changes that exist outside of the ordinances. At this B Session, City Council favorably received City staff recommendations, and City Council directed the City Attorney to present an ordinance to amend the parade and airport ordinances in January or early February of 2018. City Council and Mayor Nirenberg also directed the City Attorney to do the following: (1) lift barriers to free speech while respecting state and federal law; (2) utilize a department other than SAPD as an applicant's first point of contact; and (3) utilize a liaison to interface between event organizers and SAPD for the traffic safety planning portion of the procession application process.

## ISSUE:

The proposed recommended revisions to Chapter 19 and Chapter 3 have resulted from numerous meetings with community members and a City Council "B" Session meeting, all of which occurred between January 2017 and February 2018. All changes to the City Code would become effective immediately after City Council approval.

The proposed revisions to the Parade Ordinance that require City Council's approval include the following:

- Article XVII of Chapter 19 will be renamed 'Processions and Assemblies';
- the option for an event organizer to utilize an inward-facing parade marshal is included and a parade marshal definition is included;
- permit and traffic safety costs for First Amendment processions are removed;
- a permitting official and a procession and public assembly permit office within the Center City Development and Operations Department is created;
- explicit protection for spontaneous assemblies is provided;
- applicants can now submit their applications for a procession 15 days before an event, as opposed to 30 days;
- reasonable time and place restrictions on processions are included -- (1) No procession or public assembly permit shall be issued for streets in the "Downtown Business District" as defined in the City's Unified Development Code Appendix A, Section 35-A101(b), on non-holiday weekdays, between the hours of 7:30 - 9:00 a.m. and 4:30 - 6:00 p.m., and (2) No procession or public assembly permit shall be issued for State or Federal Highways at any time;
- the permitting official must act upon the procession permit within three calendar days;
- public assembly definition and clarification added;
- other changes consistent with lifting barriers to free speech; and

The proposed revisions to Chapter 3: Airports that require City Council's approval include the following:

- identifying free speech zones in the airport;
- giving an applicant the option to apply for free speech activity in any area in the airport;
- allowing the Director to consider an applicant's request for the applicant's desired speech zone, regardless of the location;
- providing that every effort be made to allow for reasonable access to the intended audience so long as

there is no interference with the safe and efficient operations of the airport, its passengers or tenants;  
and

- other changes consistent with lifting barriers to free speech.

The remaining recommendations are not captured in City Code, but are ongoing efforts by the City as a result of community and City action:

- the creation of an English and Spanish procession and assembly website;
- the creation of a liaison to interface between SAPD and the event organizer regarding the traffic safety plan;
- the creation of a personnel complement and associated budget;
- changes to free speech policies and spaces in certain non-public forums in the City (the Alamodome and the Henry B. Gonzalez Convention Center);
- implementation of an event organizer feedback system and data-tracking system;
- quarterly public meetings, at minimum, with community members regarding the City's First Amendment laws, policies, and practices; and
- provide print application materials at branch libraries.

## **ALTERNATIVES:**

Should these recommendations not be approved, the City Attorney and affected client departments will continue to analyze best practices and seek additional community input on the procession and assembly and airport ordinances.

## **FISCAL IMPACT:**

Based on data currently available to City staff, the amount of money collected by the City for First Amendment event permits under the current version of Article XVII of Chapter 19 of the City Code entitled Parades, Runs, Walks and Related Events is as follows: 2017: \$1,125.00; 2016: \$1,725.00; 2015: \$1,125.00, for a total of \$3,975.00 in permit fees. Article XVII currently obligates the City to pay for the first \$3,000.00 of the traffic safety and barricade costs for a First Amendment event. If the traffic safety and barricade costs exceed \$3,000.00, then the event organizer is billed the remaining balance. In 2016 and 2017, only two First Amendment events exceeded the \$3,000.00 cap. In 2015, only one First Amendment event exceeded the \$3,000.00 cap. From 2015 to 2017, event organizers were billed a total of \$24,524.51. Less the money billed to event organizers for events exceeding the \$3,000.00 cap, the City spent a total of \$63,565.52 on traffic safety and barricade costs for First Amendment events. The proposed revisions to Article XVII would obligate the City to pay all traffic safety and barricade costs for First Amendment events.

Currently, no money is charged or collected whatsoever for First Amendment activity at the airport. There are no changes proposed on First Amendment activity fees/costs at the airport.

If approved, staff will determine necessary actions to create a personnel complement and associated budget for the permitting official position.

## **RECOMMENDATION:**

Staff recommends City Council approval of the ordinance amending Article XVII of Chapter 19 of the San

Antonio City Code and Section 3-22 of Article II of Chapter 3 of the City Code.