

ORDINANCE NO.

AN ORDINANCE REPEALING CHAPTERS 4-5 AND 14-7 AND AMENDING  
CHAPTER 14-8 OF THE CITY CODE RELATING TO RIGHT OF WAY EVENT  
CLOSURES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

**PART 1.** Chapters 4-5 and 14-7 of the City Code are repealed.

**PART 2.** Sections 14-8-5, 14-8-13, 14-8-15, 14-8-18, 14-8-31, 14-8-32, and 14-8-33 of the City Code are repealed.

**PART 3.** Section 14-8-1 (*Definitions*) of the City Code is amended to read as follows:

**ARTICLE 1. GENERAL PROVISIONS.**

**§ 14-8-1 DEFINITIONS.**

In this chapter:

FIRST AMENDMENT EVENT means a parade, procession or demonstration that occurs in public right of way for the purposes of free speech.

~~[4]~~AFFECTED PERSON means:

- (a) the property owner, property manager or tenant of each property fronting on the portion of a public street to be closed; and [for an arterial street closure, a property owner, property manager, or tenant of property fronting on the portion of public street to be closed;]
- (b) a neighborhood association registered with the City, for a neighborhood whose boundaries either include the public street to be closed, or extend to a point within 1/2 of a mile of the public street to be closed. [for a residential street closure, a property owner or tenant of a residence fronting on the portion of a public street to be closed; and]

1                   ~~[(c) for both an arterial or residential street closure, a neighborhood~~  
2                   ~~association registered with the City, for a neighborhood whose~~  
3                   ~~boundaries either include the public street to be closed, or~~  
4                   ~~extend to a point within 3/4 of a mile of the public street to be~~  
5                   ~~closed, if the neighborhood association has filed a letter with~~  
6                   ~~the director:~~

- 7                   ~~(i) requesting a notice of a street closure permit application;~~  
8                   ~~(ii) enclosing a map clearly showing the neighborhood~~  
9                   ~~association's boundaries and a 3/4 mile perimeter; and~~  
10                  ~~(iii) providing the name, address, and telephone number of at~~  
11                  ~~least two contact persons for the neighborhood~~  
12                  ~~association.]~~

13                  APPLICANT means the individual or entity, including any governmental agency that is  
14                  the person legally responsible for conducting the right of way event, responsible for filing  
15                  the application and documentation, and receiving the permit issued under this chapter.

16                  ~~[(2) ARTERIAL STREET means:~~

- 17                  ~~(a) a street designed to carry a high volume of through traffic and linking~~  
18                  ~~major activity centers; and~~  
19                  ~~(b) all streets located in the geographical area bounded on the north by~~  
20                  ~~Martin Luther King, Jr. Boulevard, on the south by Riverside~~  
21                  ~~Drive/Barton Springs Road, on the east by Interstate Highway 35, and~~  
22                  ~~on the west by Lamar Blvd.]~~

23                  CLOSURE AREA means the public right of way area that the applicant requests be  
24                  closed for a right of way event or First Amendment event.

25                  CLOSURE PERMIT means a permit issued by the director for a right of way event or  
26                  First Amendment event under this chapter.

27                  ~~[(3)]~~DEPARTMENT means the department or office designated by the city manager to  
28                  administer permits issued under this chapter.

29                  ~~[(4)]~~DIRECTOR means the department director or administrative head of the department  
30                  [designated by the city manager].

1 ~~[(5)]FEE-PAID EVENT means a right of way [street] event that is in a fixed or stationary~~  
2 ~~location and requires the payment of a gate [entrance] fee to access the public right of~~  
3 ~~way.~~

4 ~~[(6) NEIGHBORHOOD COLLECTOR means a roadway that collects traffic from~~  
5 ~~residential streets and connects to an arterial street.~~

6 ~~(7) RESIDENTIAL STREET means a roadway with low traffic volumes and low speeds,~~  
7 ~~which serves adjoining residential properties and traffic within a neighborhood, and does~~  
8 ~~not continue through several districts.~~

9 ~~(8) STREET EVENT means an event requiring the closure of a portion of a public street~~  
10 ~~for an athletic event, street celebration, or block party.]~~

11 PARADE means a march or procession that does not comply with normal traffic  
12 regulations or controls on a public right of way and consists of people, animals, and  
13 vehicles.

14 RIGHT OF WAY EVENT means an event or parade that requires the full or partial  
15 closure or occupation of a public right of way or an area adjacent to the public right of  
16 way for non-construction and non-parking related use.

17 **PART 4.** Section 14-8-2 (*Permit Required*) of the City Code is amended to read as  
18 follows:

19 **§ 14-8-2 PERMIT REQUIRED; DIRECTOR WAIVER OF DEADLINES.**

20 (A) A person may not temporarily close any portion of a public right of way  
21 [street] to conduct, start, participate or assist in a right of way event [~~a street~~  
22 ~~event~~], unless the person obtains and possesses during the right of way event  
23 a closure permit under this chapter and any other permit required by this  
24 chapter or the city [City].

25 (B) The director may waive any deadline established by this chapter at the  
26 director's discretion.

**PART 5.** Section 14-8-3 (*Restrictions on Issuance of Permit*) of the City Code is amended to read as follows:

**§ 14-8-3 RESTRICTIONS ON ISSUANCE OF CLOSURE PERMIT.**

(A) ~~[The director may not issue in a calendar year more than:~~

~~(1) four permits for fee paid events on any one arterial street; and~~

~~(2) 12 permits for street events on any one arterial street, including permits for fee paid events.]~~

~~[(B)]~~ The director may not issue a closure permit for a fee-paid event without Council approval.

~~[(B)]~~ ~~[(C)]~~ The director may not issue a closure permit for a right of way ~~[street]~~ event on Sixth Street without council approval that allows right of way event activities to continue past 10 ~~[8]~~ p.m.~~[, except for Halloween and New Year's Eve events.]~~

~~[(C)]~~ The director may not issue a closure permit for a right of way event without the applicant paying the appropriate fees.

~~[(D)]~~ Except as provided in Section 14-8-15 (*Calculation of Required Signatures*) of the City Code, the director may not issue a closure permit without council approval for a right of way event if 20 percent or more of the affected persons on any block to be closed object in writing to the closure on a form prescribed by the director.

~~[(E)]~~ Except as provided in Section 14-8-15 (*Calculation of Required Signatures*) of the City Code, the director may not issue a closure permit without council approval for a fee-paid event if 10 percent or more of the affected persons on any block to be closed object in writing to the closure on a form prescribed by the director.

~~[(F)]~~ Beginning on the date following an annual right of way event, the director shall accept written objections regarding the next following event.

**PART 6.** Section 14-8-4 (*Street Closure Guidelines*) of the City Code is amended to read as follows:

**§ 14-8-4 [STREET] RIGHT OF WAY CLOSURE RULES [GUIDELINES] AND COMPLIANCE WITH OTHER APPLICABLE REGULATIONS.**

- (A) The director shall develop rules [guidelines] to establish criteria for safe and appropriate right of way event [street] closures. The director shall file a copy of the rules [guidelines] with the city clerk.
- (B) An applicant shall comply with any applicable rules [guidelines] established by the director or by separate ordinance.
- (C) Right of way events may require additional permits related to health, food, alcohol, safety, and sound amplification.

**PART 7.** Chapter 14-8-11 (*Application and Fees Required*) of the City Code is amended to read as follows:

**ARTICLE 2. CLOSURE PERMIT APPLICATION AND APPROVAL PROCEDURES.**

**§ 14-8-11 APPLICATION REQUIREMENTS [AND FEES REQUIRED].**

An application for a First Amendment event or a right of way event under this chapter must comply with the following requirements before it may be preliminarily approved or a closure permit may be issued by the director:

- (A) [To obtain a permit under this chapter,] An applicant [a person] must submit an application to the director on a form prescribed by the director. The application for a right of way event is subject to the approval of the director and must be received 180 days prior to the first day of the right of way event.
- (B) An application for a First Amendment event must be submitted for approval five days prior to the First Amendment event.

1           (C)    An application must provide:

2                   (1)    the names of the applicant,

3                   (2)    any corporate contact,

4                   (3)    any promoter,

5                   (4)    any sponsor,

6                   (5)    any authorized agents, and

7                   (6)    the date, route, and location of the closure area.

8           (D)[(B)]   An applicant must submit the following non-refundable fees  
9                   established annually by [separate] ordinance [with an application]: an  
10                  application fee, safety inspection fee, and sound permit fee.

11           (E)    An application filed by the applicant not later than the 30th day after the last  
12                   day of the current year's right of way event has priority over other  
13                   applications.

14   **PART 8.** Section 14-8-12 (*Security Deposit Required*) of the City Code is amended to  
15   read as follows:

16   **§ 14-8-12 SECURITY DEPOSIT AND FEES REQUIRED.**

17           (A)    An applicant shall pay the remaining fees and security deposit, [fee] as  
18                   established by [separate] ordinance, not later than the 10<sup>th</sup> day before the  
19                   beginning of the proposed right of way event [to insure compliance with all  
20                   permit requirements].

21           (B)    An applicant [A permittee] shall reimburse the city [City] for any additional  
22                   costs incurred by the city that exceed the amount of the security deposit.

23           (C)    Upon written request, the [The] director shall promptly refund the unused  
24                   portion of the deposit following the right of way [not later than the 30th day  
25                   after the street] event.

26           (D)    The director shall provide the applicant with an invoice for the estimated  
27                   costs of police security for a right of way event not later than the 5<sup>th</sup> business  
28                   day after the right of way event.

29           (E)    The applicant shall pay the estimated costs of police security for the right of  
30                   way event not later than the 10<sup>th</sup> business day after the right of way event.

- 1           (F)    The applicant shall pay the city the balance due for the actual cost of police  
2               security for a right of way event not later than the 20<sup>th</sup> business day  
3               following the right of way event.
- 4           (G)    The director may not charge a fee for police security that is provided by on-  
5               duty police officers.
- 6           (H)    This section does not apply to a First Amendment event organized to express  
7               the participant's right of free speech.
- 8           (I)    City department applicants for right of way events are exempt from  
9               application and permitting fees.

10   **PART 9.** Section 14-8-14 (*Supporting Documents Required*) of the City Code is  
11   renumbered and amended to read as follows:

12   **§ 14-8-13 DOCUMENTATION REQUIREMENTS FOR ALL RIGHT OF WAY**  
13   **EVENTS [SUPPORTING DOCUMENTS REQUIRED].**

- 14           (A)    The following documentation must be received no later than the 180<sup>th</sup> day  
15               prior to a right-of-way event:
- 16                (1)    an application;
- 17                (2)    a map showing the closure area and any other street affected by the  
18                closure.
- 19           (B)    The following documentation must be received no later than the 120<sup>th</sup> day  
20               prior to a right of way event:

21   ~~[An applicant shall provide the following supporting documents for the~~  
22   ~~application:]~~

- 23                (1)    a scaled electronic map, in a form prescribed by the director, of the  
24                closure area, showing [the location of] all lane configurations,  
25                sidewalks, pavement markings, curb and gutter, fire lanes, booths,  
26                stages, portable toilets, trash and recycling containers, first aid  
27                stations, EMS stations, and any other equipment or materials the  
28                applicant intends to place within the closure area;
- 29                (2)    a preliminary traffic control plan signed and sealed by a professional  
30                engineer registered with the State of Texas showing the location of all  
31                [each] barricades, signs, and devices to be used for [to] redirecting  
32                traffic around the closure area; [-including]

- (3) a letter from a private [professional] barricade entity [company] stating that [the company will set up and remove] all devices to be used during the closure will be set up and removed by the barricade entity in accordance with the Texas Manual on Uniform Traffic Control Devices and the City's Transportation Criteria Manual;
- (4)~~(3)~~ a copy of the promotional literature the applicant intends to use to advertise the right of way [street] event. The promotional literature shall encourage persons who attend the right of way event to walk or use mass transit facilities;
- ~~[(4) the names of the promoter, the owner, and the sponsors of the street event;]~~
- (5) a certificate of liability insurance naming the city as an additional insured in the amount and type of coverage required by the city's [City's] risk manager [that names the City as an additional insured];
- (6) a statement that the applicant has not been convicted of violating the terms of a permit issued under this chapter during the two years immediately preceding the date of the application;
- (7) the form of notice of proposed closure and a statement that the applicant has provided a map of the closure area and the event's promotional literature to each affected person on streets adjacent to the proposed closure area;
- (8)~~[7]~~ approval to conduct the right of way event from the fire chief, emergency medical services director, and police chief; and [a notice of proposed closure as prescribed by Section 14-8-16 (Notice of Proposed Closure and Signature Requirement), including a statement that the applicant has provided a map of the closure area and the event's promotional literature to each property owner and tenant on streets adjacent to the proposed closure area; and
- (9) for any right of way event proposing a closure area that includes any part of city parkland, approval to conduct the right of way event from the parks and recreation department director. [an emergency medical services special events information and resource form.]



1       (C)   All written objections to a proposed closure area filed in accordance with  
2       Section 14-8-14 (Notice of Proposed Closure and Signature Requirement) of  
3       the City Code must be received no later than the 60<sup>th</sup> day prior to the first  
4       day of the right of way event in order to be counted as an objection under  
5       Section 14-8-3 (Restrictions on Issuance of Closure Permit) of the City  
6       Code.

7       (D)   The following documentation must be received no later than the 45<sup>th</sup> day  
8       prior to a right of way event:

9           (1)   if a revised route is necessary because sufficient written objections are  
10          received to reject the proposed route, a scaled electronic map, in a  
11          form prescribed by the director, of the closure area showing the  
12          revised the closure area, any revised information required by Section  
13          14-8-13(B), and other streets affected by the closure; and

14          (2)   a final traffic control plan signed and sealed by a professional  
15          engineer registered with the State of Texas showing the location of all  
16          barricades, signs, and devices to be used for redirecting traffic around  
17          the closure area.

18   **PART 10.**   Section 14-8-16 (*Notice of Proposed Closure and Signature Requirement*)  
19   of the City Code is renumbered and amended to read as follows:

20   **§ 14-8-14 NOTICE OF PROPOSED CLOSURE AND SIGNATURE**  
21   **REQUIREMENT.**

22       (A)   A [The] notice of proposed closure and signature requirement shall be issued  
23       to all affected parties no later than the 90<sup>th</sup> day prior to the beginning of the  
24       right of way event, on a form approved by the director and must include:  
25       [required by Section 14-8-14 (Supporting Documents Required), shall be on  
26       a form approved by the director and must include]:

27           (1)   the name, address, and, if available, facsimile number, e-mail address  
28           and telephone number of each affected person;

29           (2)   the original signature of each affected person, including the typed or  
30           printed name of the affected person and a notation that the signer  
31           [either supports or] opposes the [street] closure; and

- (3) when applicable, an affidavit by the person circulating the notice that ~~[the person provided]~~ each affected person was provided ~~[with]~~ a copy of the map of the closure area and the promotional literature for the right of way event ~~[at the time the person signed the form]~~.
- (B) A neighborhood association, on its own letterhead, may state its ~~[support or]~~ opposition to the director regarding the proposed closure through the signature of any authorized officer of the neighborhood association.
- (C) The property owner or property manager of a multi-occupant building is the affected person under Subsection (A). If the property owner or property manager ~~[does not approve the notice, or]~~ is unavailable, the applicant shall ~~[obtain the approval of each building tenant]~~.
- ~~(D)~~ An applicant shall provide each tenant in a multi-occupant building with the opposition form, event notice, [a] copy of a map of the closure area and the right of way event's promotional material.
- ~~(D)~~~~(E)~~ For closures in a residential area ~~[street closure]~~, an applicant must ~~[may]~~ notify all affected persons on any block to be closed of the ~~[and deliver the map]~~ required documentation ~~[by Section 14-8-14(1) (Supporting Documents Required)]~~ by delivering it to at least one adult occupant of a residence.
- ~~(F)~~ A map provided under this section must contain the information required by Section 14-8-14(1) (Supporting Documents Required).
- ~~(E)~~~~(G)~~ The department shall verify the name~~;~~ and address~~;~~ and telephone number of each affected person opposing the right of way event ~~[on a notice submitted for closure of a portion of Sixth Street (East) between Congress Avenue and IH-35]~~.
- ~~(F)~~ An applicant may not request to reserve more than three diagonal parking spaces or more than two parallel parking spaces in a block, unless the applicant receives the approval from each affected person operating a business that abuts the street where the parking spaces are located.

**PART 11.** Section 14-8-17 (*Calculation of Required Signatures; Request for Reduction*) of the City Code is renumbered and amended to read as follows:

**§ 14-8-15 CALCULATION OF REQUIRED SIGNATURES[; REQUEST FOR REDUCTION].**

(A) ~~[Except as provided in Subsection (E), the director may not issue a permit unless the notice submitted by the applicant under this article contains signatures from affected persons supporting the closure as follows:~~

(1) ~~for a non-fee paid street event, 80 percent of the affected persons on each block to be closed must support the closure, including any neighborhood associations; and~~

(2) ~~for a fee-paid event, 90 percent of the affected persons on each block to be closed must support the closure, including any neighborhood associations.~~

~~(B)] The director shall count an affected person's failure to sign and return the notice of proposed closure as support for [opposition to] the [street] closure. [unless the applicant demonstrates that the applicant attempted to contact the affected person as required by Subsection (D)].~~

(B) The director may waive the signature requirement for a right of way event that receives approval from the chief of police, fire marshal, and emergency medical services director. The right of way event must have been issued closure permits for the past 10 consecutive years and have not received violations or changed the character, nature, location, or route of the right of way event.

~~(C) An applicant may request a reduction in the number of signatures required under Subsection (A) if the applicant:~~

~~(1) has complied with Subsection (D); but~~

~~(2) is unable to obtain the required percentage of signatures in support of the closure.~~

1       ~~(D)~~   An applicant who is unable to obtain the signature of an affected person on  
2       the notice shall mail to the affected person by registered mail, return receipt  
3       requested, a portion of the notice form requesting the person's signature. An  
4       applicant must include a pre-addressed, postage paid, return envelope with  
5       the notice. The applicant must address both the return envelope and  
6       registered mail receipt to the department. An applicant must deliver to the  
7       department all unclaimed notice envelopes that are returned to the  
8       applicant.]

9       (C)(E)   Provided a prior right of way event has been held for 10 or more years  
10       and has not received a violation or changed the character, nature, location or  
11       route of the right of way event, the director [The Director] may waive the  
12       signature requirement for a subsequent right of way [an annual] event held  
13       by the same applicant [by one or more sponsors] on Congress Avenue  
14       between Cesar Chavez Street and 11th Street or East Sixth Street between  
15       Congress Avenue and the IH-35 access road [for 10 or more years]. A  
16       waiver granted under this section may include the streets adjacent to  
17       Congress Avenue and East Sixth Street closed in connection with a right of  
18       way [an] event. [Not less frequently than every two years, the Director shall  
19       present Council with a report listing the events that received a waiver under  
20       this subsection and a recommendation on repeal or continuation of this  
21       subsection.]

22       [(F)   For a residential street closure, an applicant may mail the notice required  
23       under Subsection (D) and the map required by Section 14-8-14(1)  
24       ~~(Supporting Documents Required)~~ to at least one adult occupant of a  
25       residential habitation.]

26       **PART 12.** Section 14-8-19 (*Determination on Application*) of the City Code is  
27       renumbered and amended to read as follows:

28       **§ 14-8-16 DETERMINATION ON APPLICATION.**

29       The director shall approve or deny an application and the route or location of a  
30       right of way event [in writing] no later than the 30<sup>th</sup> calendar day [15<sup>th</sup> working day] after  
31       the director receives a completed [the] application. The director shall state the reasons  
32       for the denial of an application.

**PART 13.** Section 14-8-20 (*Appeal of Denial of Application*) of the City Code is renumbered and amended to read as follows:

**§ 14-8-17 APPEAL OF DENIAL OF APPLICATION.**

- (A) An applicant whose application is denied may file a written appeal with the director no later than the 5th working day after the applicant receives the notice of denial.
- (B) The director shall submit an appeal for consideration by the city manager [~~council~~]. If the city manager [~~council~~] fails to act before the 30th day after the appeal is received by the director, the appeal is denied.

**PART 14.** Section 14-8-21 (*Approval and Issuance of Permit*) of the City Code is renumbered and amended to read as follows:

**§ 14-8-18 APPROVAL AND ISSUANCE OF PERMIT.**

- (A) The director shall issue a permit to the applicant if the director determines that the application complies with this chapter and rules [~~guidelines~~] approved under this chapter[, and approves the map of the closure area showing the location of services and equipment for the street event].
- (B) The director may not issue a permit before the applicant pays the applicable fee established by [~~a separate~~] ordinance.
- (C) [~~The director may not issue a permit unless the description of the event in the application and related documents meets the requirements of~~ Article 3 (~~Specific Event Requirements~~).]
- [(D)] The director shall issue a sound amplification permit, if applicable, as part of the [~~street~~] closure permit.

**PART 15.** Section 14-8-34 (*Permit Required for the Use of Sound Equipment*) of the City Code is renumbered and amended to read as follows:

**ARTICLE 3. SPECIFIC EVENT REQUIREMENTS.**

**§ 14-8-21 PERMIT REQUIRED FOR THE USE OF SOUND EQUIPMENT.**

An applicant [~~permittee~~] may not use sound equipment at a right of way [~~street~~] event unless the applicant [~~permittee~~] obtains a sound permit. An applicant [~~permittee~~] may not operate sound equipment at a right of way [~~street~~] event that produces sound greater than:

(1) 85 decibels between 10:00 a.m. and 10:00 p.m. and 80 decibels between 10:00 p.m. and 2:00 a.m., as measured from the closer of:

(a) a point 100 feet in front of the sound equipment; or

(b) at the edge of the nearest residence from the sound equipment;  
or

(2) the decibel levels and time periods established by the director for a particular right of way [~~street~~] event.

**PART 16.** Section 14-8-41 (*Termination of Event for Permit Violation*) of the City Code is renumbered and amended to read as follows:

#### ***ARTICLE 4. ENFORCEMENT.***

#### **§ 14-8-31 MODIFICATION OR TERMINATION OF RIGHT OF WAY EVENT [~~FOR~~] PERMIT [~~VIOLATION~~].**

(A) If the director determines that an applicant [~~a permittee~~] has violated or failed to comply with the terms of a closure permit issued under this chapter, the director may immediately halt all right of way event or First Amendment event activities and reopen the closure area.

(B) The director, chief of police, emergency medical services director or fire chief may modify any route, time, and manner of conduct of any right of way event as may be deemed necessary to protect the safety and welfare of the public, including preservation of access to public buildings, maintenance of vehicular and pedestrian mobility and the accommodation of the competing public interests of free expression and public safety and convenience.

**PART 17.** Section 14-8-42 (*Offense and Penalty*) of the City Code is renumbered and amended to read as follows:

#### **§ 14-8-32 OFFENSE AND PENALTY.**

(A) A person commits an offense if the person violates the terms of a [~~street~~] closure permit, closes a right of way [~~street~~] without a closure permit, or violates any provisions of this chapter.

(B) An offense under this section is a Class C misdemeanor punishable in accordance with Section 1-1-99 (*Offenses; General Penalty*). A culpable mental state is not necessary to commit an offense under this chapter.

**PART 18.** Section 14-8-43 (*Previous Conviction*) of the City Code is renumbered and amended to read as follows:

**§ 14-8-33 PREVIOUS VIOLATION [~~CONVICTION~~].**

An applicant [~~A permittee~~] who is found [~~convicted of~~] violating the terms of a permit issued under this chapter may not apply for or receive another closure permit under this chapter for a minimum period of 24 months [~~two years~~] after the date of the violation [~~conviction~~].

**PART 19.** The change in the City Code made by this ordinance applies only to an application filed under Chapter 14-8 on or after the effective date of this ordinance. An application filed under Chapters 4-5, 14-7 or 14-8 filed before the effective date of this ordinance is governed by the City Code in effect immediately before the effective date of this ordinance, and the City Code is continued in effect for that purpose.

**PART 20.** This ordinance takes effect on \_\_\_\_\_, 2009.

**PASSED AND APPROVED**

\_\_\_\_\_, 2009      §  
   §  
   §  
\_\_\_\_\_, 2009      §  
\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk