

ORDINANCE NO. 20-O- 2821

AN URGENCY ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ARTICLE 2 OF CHAPTER 3 OF TITLE 4 (ENTITLED PARADES AND ASSEMBLIES) OF THE BEVERLY HILLS MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS FOLLOWS:

WHEREAS, the City of Beverly Hills recognizes the importance of public gatherings that allow the community to collectively express its concerns about public issues, and supports the rights of all people to peacefully exercise their First Amendment rights to free speech and assembly; and

WHEREAS, beginning on May 30, 2020, the City was subjected to widespread acts of violence and property damage, including looting and rioting, by people who were taking advantage of the protests concerning the tragic death of George Floyd, but now desires to terminate that emergency; and

WHEREAS, on June 5, June 12, and June 27 of 2020, a group called "OCCUPY" conducted large nighttime protests in the residential area of the City which began at approximately 10:00 PM and continued until approximately 1:00 AM, and which included the use of bullhorns, amplified music, fireworks, and other items used to disrupt the tranquility of the residential neighborhood during hours when many people ordinarily would be sleeping; and

WHEREAS, since May 30 the City has been host to a number of protests from across the political spectrum including protests organized by "Mr. Checkpoint," Freedom Rallies, and protests regarding the conflict between Armenia and Azerbaijan; and

WHEREAS, the City desires to adopt regulations that will promote the free exercise of First Amendment rights through parades and assemblies, and simultaneously serve the significant interests of protecting the public health and safety of our community, including those involved in or observing parades and assemblies; and

WHEREAS, the City particularly desires to protect its residents' rights to enjoy the tranquility of their homes during nighttime hours when people ordinarily would be sleeping; and

WHEREAS, in the interest of public peace, health and safety, it is necessary for the City Council to exercise its authority to adopt this urgency ordinance to adequately respond to the continuing threat of nighttime protests in the residential area and the use of fireworks in connection with parades and assemblies which would be unregulated upon the termination of the state of emergency declared on May 30<sup>th</sup>.

Section 1. Article 2 of Chapter 3 of Title 4 (entitled Parades and Assemblies) of the Beverly Hills Municipal Code is hereby amended in its entirety to read as follows:

**“ARTICLE 2. PARADES AND ASSEMBLIES**

**4-3-200: ASSEMBLIES OF LESS THAN FIVE HUNDRED PEOPLE:**

Notwithstanding any other provision of this Article, assemblies of less than five hundred (500) people will be allowed without a permit in that portion of Beverly Gardens Park between Crescent Drive and Rodeo Drive, La Cienega Park, and on the Crescent Drive side of the City Hall. No sound amplification equipment shall be permitted if it will generate Significant Noise Impacts.

**4-3-201: PERMIT REQUIRED:**

No person shall engage in, conduct, or carry on the activity of a parade or assembly without a permit issued under the provisions of Chapter 1, Article 1 of this Title. The permit may authorize the use of sound amplifying equipment and electrical generators in conjunction with a parade or assembly without a permit issued under Article 5 of this Chapter.

**4-3-202: DEFINITIONS:**

**ASSEMBLY:** Any meeting, demonstration, picket line, rally, gathering, or group of persons, animals, or vehicles, or a combination thereof, having a common purpose, design, or goal, either (1) upon any public street, sidewalk, alley, or city park path which numbers twenty-five (25) or more and which assembly will or tends to substantially inhibit the usual flow of pedestrian or vehicular traffic, other than a “parade,” as defined in this Section, or (2) upon any park or other public place which numbers seventy-five (75) or more and which occupies any public area, other than a "parade," as defined in this Section.

**PARADE:** Any march, demonstration, procession, motorcade, or promenade consisting of persons, animals, or vehicles, or a combination thereof, having a common purpose, design, destination, or goal; upon any public place, which parade, march, demonstration, procession, motorcade, or promenade does not comply with normal and usual traffic regulations or control.

**SIGNIFICANT NOISE IMPACTS:** The generation of noise that is distinctly audible from within the nearest residence or dwelling.

**4-3-203: EXEMPTIONS:**

In addition to the assemblies described in Section 4-3-200 above, the permit application provisions of this Article shall not apply to the following:

A. Spontaneous parades or assemblies occasioned by news or affairs coming into public knowledge within three (3) days before such assembly, provided that the organizers thereof, if any, give written notice to the City at least twenty four (24) hours prior to such parade or assembly.

1. Such written notice shall contain all of the following information:

a. The name, address and telephone number of the person or persons seeking to organize or conduct the parade or assembly. This person or these persons shall be considered a permittee for the purposes of this Article.

b. The name, address and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the parade or assembly is proposed to be conducted.

c. The name, address and telephone number of the person who will chair the parade or assembly and who will be responsible for its conduct.

d. The location and date of the proposed parade or assembly, including the assembly area, disbanding area, and the route to be traveled.

e. An estimate of the approximate number of persons who will be participating in the parade or assembly and an estimate of the approximate number of persons who will be observing the parade or assembly.

f. The time at which the parade or assembly will start and conclude.

g. The type of security or other arrangements that will be provided to assure that participants are properly directed.

h. The type of sound amplification equipment and electrical generators that will be used, if any.

i. Whether participants in the parade or assembly will be wearing masks.

2. The City Manager or the City Manager's designee may deny permission to conduct the parade or assembly within eighteen (18) hours of the submission of the notice pursuant to subsection B of Section 4-3-205 if the City Manager or the City Manager's designee makes a finding requiring denial pursuant to subsection B of Section 4-3-205. If the City Manager makes a finding requiring denial pursuant to that subsection, the City Manager shall immediately provide notice of the denial, including the reason for the denial, by telephone to the permittee and shall also provide written notice of the denial including the reason for the denial. If the permittee provides an email address for the purpose of receiving notices, the City Manager shall provide written notice of the denial by email immediately upon making the denial decision. If the proposed parade or assembly is denied, an assembly of less than 500 (five hundred) persons may still occur pursuant to Section 4-3-200 of this Article.

#### **4-3-204: APPLICATION FOR PERMIT:**

A. A person seeking issuance of a permit pursuant to this Article shall file an application with the City Manager or the City Manager's designee, on forms supplied by the City.

B. The application shall be filed with the City Manager or the City Manager's designee in accordance with the following time limitations:

1. Not less than six (6) days prior to the date of the parade or assembly if the parade or assembly is proposed to take place in whole or in part on, in or along the roadway portion (other than moving within crosswalks) of the following streets in the City of Beverly Hills: Wilshire Boulevard, Olympic Boulevard, Santa Monica North Roadway, Sunset Boulevard, La Cienega Boulevard, or Robertson Boulevard;

2. Not less than four (4) days prior to the date of the parade or assembly if the parade or assembly is proposed to take place in whole or in part on, in or along the roadway portion (other than moving within crosswalks) of any other street in a commercial zone within the City of Beverly Hills;

3. Not less than three (3) days prior to the date of the parade or assembly if the parade or assembly is proposed to take place in whole or in part on, in or along a roadway portion of a street or sidewalk or any other portion of the public right of way in a residential zone, or outside of the roadway in a commercial zone or residential zone, but within the sidewalk or any other portion of the public right of way;

4. Not less than two (2) days prior to the date of the parade or assembly if the parade or assembly is proposed to take place in whole or in part on, in or along any park or other publicly owned public forum in the City of Beverly Hills not governed by subsections B1 through B3 of this Section.

C. The application shall include, but shall not be limited to, the following information:

1. The name, address and telephone number of the person or persons seeking to organize or conduct the parade or assembly.

2. The name, address and telephone number of the headquarters of the organization, if any, and of the organizer or responsible head of such organization by whom or on whose behalf the parade or assembly is proposed to be conducted.

3. The name, address and telephone number of the person who will chair the parade or assembly and who will be responsible for its conduct.

4. The location and date of the proposed parade or assembly, including the assembly area, disbanding area, and the route to be traveled.

5. An estimate of the approximate number of persons who will be participating in the parade or assembly and an estimate of the approximate number of persons who will be observing the parade or assembly.

6. The hours when the parade or assembly will start and conclude.

7. The type of security or other arrangements that will be provided to assure that participants are properly directed.

8. The minimum and maximum speeds that the parade is to travel, if applicable, and the maximum number of platoons or units, if any, in the parade or assembly and the maximum and minimum interval of space to be maintained between the units of such parade or assembly.

9. The maximum length of such parade or assembly in miles or fractions thereof.

10. The number and type of vehicles and animals in the parade or assembly, if any.

11. The number and type of electrical generators to be installed, carried, possessed, and/or operated during the parade or assembly, if any.

12. Whether any of the participants in the parade or assembly will be wearing any type of mask or other face covering.

13. A statement to be signed by the person seeking the permit that the permittee will hold harmless and indemnify the City of Beverly Hills, its elected officials, officers, employees and agents from any damages which may arise as a result of the alleged willful or negligent acts or omissions of permittee, its officers, agents, or employees in connection with the permitted assembly or parade.

14. If the assembly or the parade set up or dispersal is to be conducted on private property, the applicant must submit with the application proof of the property owner's permission for the property to be used for that purpose.

15. The number and type of sound amplification equipment that will be used in the parade or assembly, if any.

D. Within twenty four (24) hours after the submission of the application, the City Manager or the City Manager's designee must notify the applicant, in writing, whether the application is complete. If no such notice is given within twenty four (24) hours after submission, the application will be deemed to be complete.

**4-3-205: GENERAL CRITERIA FOR ISSUANCE OR DENIAL OF PERMIT:**

A. In lieu of the criteria for issuance or denial of a permit under the provisions of Section 4-1-103 of this Title, the following criteria shall apply to issuance or denial of a parade or assembly permit.

B. The permit shall be issued by the City Manager or the City Manager's designee unless there is a finding that:

1. The information contained in the application is false or intentionally misleading; or

2. The parade or assembly is proposed to take place in the roadway portion of any street in a commercial zone between the hours of eight o'clock (8:00) A.M. and ten o'clock (10:00) A.M. or between the hours of four o'clock (4:00) P.M. and six thirty o'clock (6:30) P.M., Monday through Friday, unless the parade or assembly will occur on a national holiday; or

3. The parade or assembly is proposed for a time and location for which another event permit has been previously issued, such as licensed sporting events, youth sports camps, and other licensed or permitted public entertainment events; or

4. The parade or assembly will require the simultaneous closure of the roadway portion of more than two (2) streets that run in a generally north and south direction between the hours of seven o'clock (7:00) A.M. and eight o'clock (8:00) P.M., Monday through Friday, or between the hours of ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. on Saturday, unless the parade or assembly will occur on a national holiday; or

5. The parade or assembly will require the simultaneous closure of the roadway portion of more than two (2) streets that run generally in an east and west direction between the hours of seven o'clock (7:00) A.M. and eight o'clock (8:00) P.M., Monday through Friday, or between the hours of ten o'clock (10:00) A.M. and six o'clock (6:00) P.M. on Saturday, unless the parade or assembly will occur on a national holiday; or

6. The parade or assembly, by itself or in combination with other parades or assemblies, will require closure of the roadway portion of any street in a commercial zone for more than three (3) hours in any one day between the hours of seven o'clock (7:00) A.M. and eight o'clock (8:00) P.M., Monday through Friday; or

7. The proposed route or location of the parade or assembly traverses a street or other public right of way that was scheduled for maintenance, construction or repair prior to the application for that parade or assembly permit and the conduct of the parade or assembly would interfere with such maintenance, construction or repair or the maintenance, construction or repair would represent a threat to the health or safety of the participants in the parade or assembly; or

8. The proposed area for the assembly or for the set up or dispersal of a parade could not physically accommodate the number of participants expected to participate in the parade or assembly, as reflected in the application completed and submitted pursuant to the requirements of this Article; or

9. The parade would result in a violation of any Federal, State or local law or regulation.

Upon making any finding set forth in this subsection, the City Manager or the City Manager's designee shall deny the permit application.

C. As a condition of the issuance of a permit under the provisions of this Article, the City Manager or the City Manager's designee may require that the parade or assembly be limited to a portion of the width of the street or right-of-way upon which the applicant seeks to conduct the parade or assembly, provided that such limitation does not limit or interfere with the conduct of

the parade or assembly or cause the parade or assembly to violate any other provision of this Article or any other Federal, State or local law or regulation.

**4-3-206: NONDISCRIMINATION:**

The official designated by the City to act on permit applications shall uniformly consider each application upon its merits and shall not discriminate in granting or denying applications; and, shall not deny any permit based upon political or religious grounds or reasons.

**4-3-207: NOTICE OF ISSUANCE OR DENIAL OF PERMIT:**

A. The City Manager or the City Manager's designee shall approve or deny the permit application within the following time limitations, and shall notify in writing the applicant of the action taken:

If the permit is sought under the provisions of subsection 4-3-204(B)(1) or (B)(2) of this Article, within two (2) days after submission of the application. If the permit is sought under the provisions of subsection 4-3-204(B)(3) or (B)(4) of this Article, within twenty four (24) hours after submission of the application.

B. If the permit is denied, the notice of denial shall set forth the reasons for denial.

**4-3-208: INTERFERENCE WITH PARADE OR ASSEMBLY:**

No person shall knowingly join or participate in any parade or assembly conducted under permit from the City in violation of any of the terms of said permit, nor knowingly join or participate in any permitted parade or assembly without the consent of the permittee, nor in any manner interfere with its progress or orderly conduct.

**4-3-209: PROHIBITIONS:**

The following prohibitions shall apply to all parades, assemblies, protests, demonstrations, picketing, or rallies on public property (for the purposes of the section, "parades and assemblies"):

A. It shall be unlawful for any person to carry or possess, while participating in any parade or assembly, any length of lumber, wood, or wood lath greater than one foot (1') in length, unless such object is of wood, is blunted at its ends, and is one-fourth inch (1/4") or less in thickness and two inches (2") or less in width, or if not generally rectangular in shape, such object shall not exceed three-fourths inch (3/4") in its thickest dimension.

B. It shall be unlawful for any person to carry or possess any length of plastic or metal pipe, rod or other object greater than one foot (1') in length or greater than one-quarter inch (1/4") in its thickest dimension, including rods attached to signs, posters, plaques, notices.

C. It shall be unlawful for any person to carry any sign, poster, plaque, or notice, whether or not mounted on a length of wood as specified in subsection A of this Section, unless such sign,

poster, plaque, or notice is constructed solely of a cloth, paper, or cardboard material no greater than one-quarter inch (1/4") in thickness.

D. It shall be unlawful for any person to ride, drive, or cause to be ridden or driven any animal or any animal drawn vehicle upon any public street, unless specifically authorized by a permit.

E. 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.

F. It shall be unlawful for any person to carry or possess weapons such as firearms, knives, swords, sabers or other bladed devices, axes, hammers, hatchets, ice picks, razor blades, nun chucks or martial arts weapons of any kind, box cutters, pellet or BB guns, conducted electrical weapons (CEWs), including, but not limited to, tasers or stun guns, metal/composite/wooden knuckles, any chain greater than twenty inches (20") in length or greater than one-fourth inch (1/4") in diameter, or toy or replica firearms unless such toy or replica firearm is fluorescent colored or transparent.

G. It shall be unlawful for any person to carry or possess any balloons, bottles or any other container containing any flammable, biohazard, or other noxious matter which is injurious, or nauseous, sickening or irritating to any of the senses.

H. It shall be unlawful for any person to carry or possess any aerosol spray, tear gas, mace, pepper spray or bear repellent.

I. It shall be unlawful for any person to carry or possess glass bottles, whether empty or filled.

J. It shall be unlawful for any person to carry or possess shields made of metal, wood, hard plastic, glass or any combination thereof.

K. It shall be unlawful for any person to carry or possess bricks, rocks, pieces of asphalt, concrete, pellets or ball bearings.

L. It shall be unlawful for any person to carry or possess baseball or softball bats, regardless of composition or size; provided, however, that such items are permissible when configured of cloth, cardboard, soft plastic, foam or paper for expressive purposes.

M. 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. This Section shall not apply to any cloth or polymer face covering worn to protect the wearer and/or nearby persons from the transmission of infectious disease.

N. It shall be unlawful for any person to carry or possess any open flame torches, lanterns, fireworks, or other devices that utilize combustible materials such as gasoline, kerosene, propane, gunpowder, pyrotechnic stars, or other fuel sources.



O. It shall be unlawful for any person to carry or possess any device that emits a single point of light amplified by the stimulated emission of radiation that is visible to the human eye, including laser pointers and laser scopes.

P. It shall be unlawful for any person to carry or possess any device which contains one or more metal, wood, hard plastic, or glass spikes, barbs, or other sharp protrusions, including homemade spike strips.

Q. It shall be unlawful for any person to carry or possess an electrical generator, whether wired or portable, unless the specific generator is installed, carried, possessed, and/or operated pursuant to a permit issued pursuant to this Article.

R. It shall be unlawful for any person to carry, possess, or ride a skateboard in a public thoroughfare or right-of-way.

S. It shall be unlawful for any person to participate in a parade or assembly which takes place in the roadway or sidewalk abutting any residence or dwelling not in a commercial zone between the hours of seven o'clock (7:00) P.M. or one half hour after sunset, whichever is earlier, and eight o'clock (8:00) A.M., unless the parade or assembly does not cause significant noise impacts as defined in Section 4-3-201.

T. It shall be unlawful for any person to engage in a targeted Parade or Assembly. For the purposes of this subsection, "targeted Parade or Assembly" means a Parade or Assembly which focuses on a single residence or dwelling in the City and which proceeds solely in front of that residence for a period of more than 15 minutes.

U. It shall be unlawful for any person to fail to abide by the instructions of a police officer or a traffic control officer given for the purpose of accommodating traffic, including emergency vehicles, through and across a parade route, demonstration, rally, picket line or assembly.

Nothing in this Section shall prohibit a disabled person from carrying a cane, walker, or similar device necessary for providing mobility so that the person may participate in a demonstration, rally, picket line, parade or assembly.

#### **4-3-210: CONTENT OF PERMIT:**

In each permit, a copy of which shall be maintained and kept upon the person in charge of the parade or assembly at the parade or assembly site at all times during the parade or assembly, including during assembly and dispersal, the City Manager or the City Manager's designee, shall set forth the following information as that information is set forth in the approved application:

A. The name, address and telephone number of the person to whom the permit is issued.

B. The names, addresses and telephone numbers of the sponsoring organization, if any.

- C. The name, address and telephone number of the chairperson of the parade or assembly.
- D. The date for which the parade or assembly is scheduled.
- E. The assembly area for the parade or assembly.
- F. The starting and ending time for the parade or assembly.
- G. The minimum and maximum speeds at which the parade is to progress, if applicable.
- H. The route which the parade or assembly will take.
- I. The maximum number of platoons or units, if any, in the parade or assembly and the maximum and minimum interval of space to be maintained between the units of such parade or assembly.
- J. The maximum length of such parade or assembly in miles or fractions thereof.
- K. The disbanding area for the parade or assembly and the disbanding time.
- M. The number and type of vehicles and animals in the parade or assembly, if any.
- N. Whether participants in the parade or assembly shall be wearing masks.
- O. The type of security or other arrangements that will be provided to assure participants are properly directed.
- P. The number and type of electrical generators and sound amplification equipment that will be used in the parade or assembly.
- Q. The amount of a deposit, if any, necessary to reimburse the City for traffic control costs under Section 4-3-211.

The parade or assembly permit shall also set forth any condition imposed pursuant to subsection 4-3-205C of this Article. Additionally, the permittee shall advise all participants in the parade or assembly, of the terms and conditions of the permit, prior to the commencement of the parade or assembly.

**4-3-211: CITY'S COSTS TO BE PAID BY PERSON OR ORGANIZATION RESPONSIBLE FOR PARADE OR ASSEMBLY:**

Prior to engaging in a parade or assembly, a permittee under the provisions of this Article shall deposit with the City an amount necessary to reimburse the City for all traffic control costs incurred in connection with diverting traffic due to any occupancy of the roadway portion of a City street. These costs shall be established by the City Council by resolution. No fee shall be charged based

upon the need for security or increased police protection due to the nature of the parade or assembly.

**4-3-212: VIOLATION:**

Any violation of the terms or conditions of a parade or assembly permit, or a parade or assembly notice pursuant to Section 4-3-203 of this Article, by the permittee or any participant in a parade or assembly is a misdemeanor.

**4-3-213: JUDICIAL REVIEW:**

Any applicant or permittee pursuant to this Article may seek judicial review of any decision made pursuant to this Article in accordance with the provisions of Section 1-5-302 of this Code.”

Section 2. CEQA. The City Council hereby finds, in the exercise of its independent judgment and analysis, that this ordinance is not a project under the California Environmental Quality Act (CEQA) as State CEQA Guidelines Section 15378(b)(5) provides that a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. This ordinance merely amends the City’s regulations governing parades and assemblies, and does not allow any new uses land within the City that would result in direct or indirect physical changes to the environment. In addition, this ordinance is also exempt from the California Environmental Quality Act (CEQA) as there is no possibility the proposed ordinance would have a significant impact on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). A Notice of Exemption has been prepared and will be filed in accordance with CEQA and the State CEQA Guidelines.

Section 3. Termination of Emergency. The City Council hereby terminates the emergency called by the Director of Emergency Services on May 30<sup>th</sup> and ratified by the City Council on June 5<sup>th</sup>.

Section 4. Severability. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the other provisions of this Ordinance.

Section 5. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and this certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 6. Effective Date. This Ordinance is adopted as an urgency ordinance for the immediate preservation of the public peace, health and safety within the meaning of Government Code Section 36937(b), and therefore shall be passed immediately upon its introduction and shall become effective at 12:01 a.m., of November 4, 2020 upon its adoption by a minimum 4/5 vote of the City Council.

Section 7.      Certification. The City Clerk shall certify to the adoption of this Ordinance.

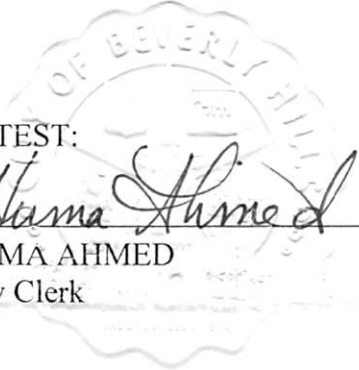
Adopted:    October 27, 2020  
Effective:   October 28, 2020

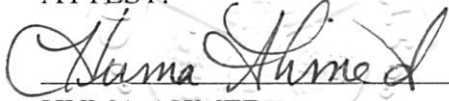


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LESTER J. FRIEDMAN  
Mayor of the City of  
Beverly Hills, California

ATTEST:



 (SEAL)  
HUMA AHMED  
City Clerk

APPROVED AS TO FORM:



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LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:



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GEORGE CHAVEZ  
City Manager