

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 2/7/2005	Department ID Number: CA 05-4

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HUNTINGTON BEACH, CA
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**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR CITY COUNCIL MEMBERS

SUBMITTED BY: JENNIFER MCGRATH, City Attorney

PREPARED BY: JENNIFER MCGRATH, City Attorney

SUBJECT: Ordinance Amending Chapter 13.54 and 12.32 Relating to 4th of July Parade Viewing *Ord. No. 3695*

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue: Whether or not to amend Chapters 13.54 and 12.32 of the Municipal Code to establish parameters for staking on public property prior to and during the annual 4th of July parade.

Funding Source: N/A

Recommended Action: Adopt Ordinance No. 3695 entitled an Ordinance of the City of Huntington Beach Amending Chapters 13.54 and 12.32 of the Huntington Beach Municipal Code Relating to 4th of July Parade Viewing.

Alternative Action(s): Do not adopt Ordinance No. 3695.

Analysis: At the City Council meeting on December 20, 2004, Councilmember Coerper brought an "H" item regarding problems with "staking" on public property prior to and during the 4th of July parade. After discussion of the item, the City Council instructed the City Attorney to prepare an ordinance which would set forth the parameters for citizens who "stake" out public areas.

Environmental Status: N/A

Attachment(s):

City Clerk's Page Number	No.	Description
25	1.	Ordinance of the City of Huntington Beach Amending Chapters 13.54 and 12.32 of the Huntington Beach Municipal Code Relating to 4 th of July Parade Viewing. <i>Ord 3695</i>
	2.	Legislative Drafts of Chapters 13.54 and 12.32.

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ATTACHMENT NO. 1

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTERS 13.54 and 12.32 OF THE HUNTINGTON BEACH
MUNICIPAL CODE RELATING TO 4TH OF JULY PARADE VIEWING

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. That Chapter 13.54 of the Huntington Beach Municipal Code is hereby amended by deleting Section 13.54.200 thereof in its entirety.

SECTION 2. That Section 12.32.010 of Chapter 12.32 of the Huntington Beach Municipal Code is hereby amended read as follows:

12.32.010 Loitering obstructing free passage. Except as provided in Section 12.32.015 herein, no person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, shall loiter, stand, sit or lie in or upon any public or quasi public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon; neither shall any person block nor obstruct, nor prevent the free access to the entrance to any building open to the public.

SECTION 2. That Chapter 12.32 of the Huntington Beach Municipal Code is hereby amended to add Section 12.32.015, said section read as follows:

12.32.015 Fourth of July Parade viewing.

- (a) No person shall place on any public property, furniture, stakes, rope, ribbon, signs or any other item used to reserve areas for parade viewing before 9:00 a.m. on July 3rd.
- (b) No materials used to reserve areas of public property shall block or interfere with pedestrian or vehicular traffic, or block those portions of sidewalks and streets used for the same prior to 6:00 a.m. on July 4th.
- (c) Adhesive material, including adhesive tape, is prohibited for use in reserving space for parade viewing. This prohibition includes, but is not limited to, the use of tape or other adhesives on trees, poles and signs.
- (d) No person shall sell, lease, or rent any seat or space on public property.
- (e) No person may use any area of public property so as to interfere with any person's viewing of the parade from a City authorized and approved grandstand.
- (f) All materials used to designate a private viewing area as described in this section shall be removed by 3:00 p.m. on July 4th.

SECTION 3. This ordinance shall become effective 30 days after its adoption.

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PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2005.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

1/11/05 Jennifer M. Gates
City Attorney 1-10-05

REVIEWED AND APPROVED:

Penelope Cullen
City Administrator

INITIATED AND APPROVED:

1/11/05 Jennifer M. Gates
City Attorney 1-10-05

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ATTACHMENT NO. 2

LEGISLATIVE DRAFT
Chapter 12.32

SIDEWALKS--OBSTRUCTING

(69-11/10, 1516-9/69, 1625-3/71, 1784-12/72, 3228-4/94, 3294-8/95)

Sections:

- 12.32.010 Loitering obstructing free passage
- 12.32.015 Fourth of July Parade viewing**
- 12.32.020 Animals or vehicles
- 12.32.030 Signs
- 12.32.040 Driving over unprotected sidewalk
- 12.32.050 Paved sidewalk crossing excepted
- 12.32.060 Prohibited Acts
- 12.32.070(a) Definition -- "Aggressive Manner"
- 12.32.070(b) Definition -- "Ask, Beg, or Solicit Alms"
- 12.32.080 No restriction on free speech
- 12.32.090 Severability
- 12.32.100 Nuisance

12.32.010 Loitering obstructing free passage. **Except as provided in Section 12.32.015 herein, n**No person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, shall loiter, stand, sit or lie in or upon any public or quasi public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon; neither shall any person block nor obstruct, nor prevent the free access to the entrance to any building open to the public. (1516-9/69, 1625-3/71)

12.32.015 Fourth of July Parade viewing.

- (a) No person shall place on any public property, furniture, stakes, rope, ribbon, signs or any other item used to reserve areas for parade viewing before 9:00 a.m. on July 3rd.**
- (b) No materials used to reserve areas of public property shall block or interfere with pedestrian or vehicular traffic, or block those portions of sidewalks and streets used for the same prior to 6:00 a.m. on July 4th.**
- (c) Adhesive material, including adhesive tape, is prohibited for use in reserving space for parade viewing. This prohibition includes, but is not limited to, the use of tape or other adhesives on trees, poles and signs.**
- (d) No person shall sell, lease, or rent any seat or space on public property.**
- (e) No person may use any area of public property so as to interfere with any person's viewing of the parade from a City authorized and approved grandstand.**
- (f) All materials used to designate a private viewing area as described in this section shall be removed by 3:00 p.m. on July 4th.**

12.32.020 Animals or vehicles. No person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with the provisions of this chapter, shall ride, operate, walk or park any motorcycle, horse or other similar object or animal, in or upon any public or quasi public sidewalk, street, curb, crosswalk, walkway area, mall or

that portion of private property utilized for public use, so as to hinder or to obstruct unreasonably the free passage of pedestrians thereon, or to create any hazardous condition thereon. (1625-3/71, 1784-12/72)

12.32.030 Signs. Signs posted as provided in this chapter shall conform to the following requirements:

- (a) Each sign shall not be less than 22 by 30 inches;
- (b) Colors of such signs shall be optional;
- (c) All signs shall be clearly visible to persons in restricted locations;
- (d) Signs shall have the word "WARNING" two inches in height, and all other lettering shall be at least 5/8 inches in height;
- (e) Signs shall be posted every one hundred feet;
- (f) The following wording shall appear on each sign:

"WARNING

‘Unreasonable obstruction of pedestrian traffic in this area by persons loitering, standing, sitting, lying or by riding, operating, walking or parking any motorcycle, bicycle, horse or similar objects or animals is prohibited and punishable as a MISDEMEANOR.’
Huntington Beach Municipal Code Chapter 12.32, Huntington Beach Police Department
536-5933." (1625-3/71)

12.32.040 Driving over unprotected sidewalk. No person shall drive any wagon or other vehicle over, along or across any cement or other improved sidewalk or curb unless planking is laid thereon in such manner as to protect such sidewalk or curb. (69-11/10)

12.32.050 Paved sidewalk crossing excepted. The provisions of section 12.32.040 shall not apply to the driving of vehicles over sidewalks or curbs at places where cement or asphalt crossings are constructed across such sidewalks and curbs. (69-11/10)

12.32.060 Prohibited Acts. No person shall ask, beg, or solicit alms in an aggressive manner in any place open to the general public, whether publicly or privately owned, including but not limited to any sidewalks, streets, alleys, driveways, parking lots, parks, plazas, buildings, doorways and entrances to buildings, gasoline service stations, and the grounds around or enclosed by buildings. (3228-4/94)

12.32.070(a) Definition. "Aggressive manner" means approaching, speaking to, or following a person in a manner as would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person, or upon property in the person's immediate possession; or (3228-4/94)

- (a) Touching another person without such person's consent in the course of asking, begging or soliciting alms; or (3228-4/94)
- (b) Continuing to ask, beg, or solicit alms from a person after such person has made a negative response or otherwise indicated a desire not to contribute; or (3228-4/94)
- (c) Intentionally blocking or interfering with the safe or free passage of the person solicited by any means, including causing such person to take evasive action to avoid physical contact or preventing such person from departing the location of the solicitation; or (3228-4/94)

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- (d) Intentionally following the person solicited, without such person's consent, for the purpose of continuing to ask, beg or solicit alms after such person has made a negative response or indicated a desire not to contribute; or (3228-4/94)
- (e) Making any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat of bodily harm; or (3228-4/94)
- (f) Rendering any service to a motor vehicle, including but not limited to any cleaning, washing, protecting, guarding or repairing of said vehicle or any portion thereof, without the prior consent of the owner, operator or occupant of such vehicle, and thereafter asking, begging or soliciting alms or payment for the performance of such service, regardless of whether such vehicle is stopped, standing or parked on a public street or upon other public or private property; or (3228-4/94)
- (g) Intentionally blocking, preventing, impeding or interfering with the free and unobstructed ability of the person solicited to enter into or emerge from any vehicle during the course of asking, begging or soliciting alms or following a negative response by the person solicited to any such solicitation; or (3228-4/94)
- (h) Intentionally blocking, preventing, impeding or interfering with the operation or movement of any vehicle operated or occupied by the person solicited, during the course of asking, begging or soliciting alms or following a negative response by the person solicited to any such solicitation. (3228-4/94)

12.32.070(b) Definition. "Ask, Beg, or Solicit Alms" includes the spoken written, or printed word or such other act conducted for the purpose of obtaining an immediate donation of money or thing of value, whether for personal use, or as a charitable contribution to any individual or organization, or for any other purpose. (3228-4/94)

12.32.080 No restriction on free speech. This ordinance is not intended to restrict the exercise of protected free speech. (3228-4/94)

12.32.090 Severability. The City Council of the City of Huntington Beach hereby declares that should any section, paragraph, sentence or word of this ordinance of the Code, hereby adopted, be declared for any reason to be invalid, it is the intent of the Council that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid. (3228-4/94)

12.32.100 Nuisance. It shall be deemed a public nuisance for any person, after first being warned by a law enforcement officer, or where a sign has been posed in accordance with this chapter, to loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, mall or that portion of private property utilized for public use, so as to hinder or obstruct unreasonable the free passage of pedestrians thereon. It shall be a public nuisance for any person to block or obstruct, or prevent the free access to the entrance to any building open to the public. (3294-8/95)

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LEGISLATIVE DRAFT

Chapter 13.54

SPECIFIC EVENTS

(3608-6/03)

Sections:

13.54.010	Definitions
13.54.020	Permit required
13.54.030	Permit application
13.54.040	Application--Contents of
13.54.050	Permit—Specific Event for other than applicant.
13.54.060	Specific Events Committee established
13.54.070	Review of Permit Application by Director
13.54.080	Denial by the Director
13.54.090	Review of Permit Application to Specific Events Committee
13.54.100	Permit--Granting or refusal
13.54.110	Permit--Late applications
13.54.120	Permit--Surety and insurance
13.54.130	Permit--Granting conditions
13.54.140	Permit—Denial
13.54.150	Permit--Contents of
13.54.160	Permit suspension or revocation
13.54.170	Appeal--Filing
13.54.180	Appeal--Council action
13.54.190	Exceptions to provisions
13.54.200	Fourth of July Parade viewing
13.54.210	Interference with Specific Event
13.54.220	Parking of vending vehicles
13.54.230	Enforcing officer
13.45.240	Permit conditions
13.54.250	Violation-Penalty

13.54.010 Definitions

- (a) "Director" refers to the Director of Community Services Department and/or his/her designee.
- (b) "Fourth of July Parade" is that annual parade sponsored by the City of Huntington Beach.
- (c) "Parade" means any march, parade, procession or public assembly consisting of persons or animals or vehicles or any combination thereof, upon any public or quasi public street, road, highway, sidewalk, alley, park, parkway, pier, beach, building or other public or quasi public place, which obstructs or unreasonably interferes with the free passage of vehicular traffic or pedestrian travel.
- (d) "Parade route" shall mean the entire route of a parade as approved by the Director.
- (e) "Parkway" shall mean that area between the edge of the roadway and the adjacent property line excluding that area occupied by the sidewalk. Parkway shall also include any area within a roadway which is not open to vehicular travel.

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13.54.180 Appeal--Council action.

- (a) Within sixty (60) days after filing a written appeal from the suspension, revocation, or denial of a permit with the City Clerk, the City Council shall consider the appeal at a regular meeting. Written notice of the time and place the City Council will consider the appeal shall be mailed by the City Clerk to the person who filed the appeal at least ten (10) days before the date set for hearing unless the applicant/permittee shall waive notice in writing.
- (b) In any appeal, the City Council shall consider the application, the record of the case submitted by the Director and other pertinent information presented, and may grant or deny the permit subject to the conditions, terms and regulations set forth in this Chapter. The decision of the City Council shall be final.
- (c) The City Clerk shall, within three (3) days after decision of the City Council, notify the applicant/permittee in writing of the decision of the City Council.

13.54.190 Exceptions to provisions. No permit shall be required under this Chapter with respect to:

- (a) Any Specific Event sponsored by, or held under the auspices of, the City of Huntington Beach;
- (b) Any bona fide funeral procession, the purpose of which is to transport the remains of a deceased person to a place of burial or cremation.

~~13.54.200 Fourth of July Parade viewing. The purpose of this section is to establish regulations concerning the viewing of the annual Fourth of July Parade.~~

- ~~(a) No person shall place a chair, structure, rope, sign or other item, on any public property including center medians, prior to 12:01 a.m. on the 2nd of July and after 2:00 p.m. on the 4th of July.~~
- ~~(b) No person shall sell any seat or space on public property without permission from the Director.~~
- ~~(c) No privately placed seating shall be so located or constructed on public property so as to interfere with any person's viewing of the parade from a City authorized and approved grandstand.~~

13.54.210 Interference with Specific Events. No person shall knowingly join or participate in any Specific Event in violation of any of the terms, conditions, or regulations of the permit issued therefore, or knowingly join or participate in any Specific Event without the consent and over the objection of the permittee or in any manner interfere with the orderly conduct of such event. "Interfere" for purposes of this ordinance shall mean:

- (a) Placing furniture or erecting booths or stands within twenty feet of the area designated for use by the permittee only; or so as to obstruct the view of audience members, after having first been warned;

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