

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ROME, GEORGIA, AND PARTICULARLY TO AMEND CHAPTER 11, ARTICLE IX THEREOF, TO MODERNIZE THE REASONABLE TIME, MANNER, AND PLACE RESTRICTIONS OF THE CITY OF ROME, GEORGIA FOR ASSEMBLIES; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the Rome City Commission wishes to modernize its Chapter 11, Article IX, Division 2, of the Code of the City of Rome, Georgia, relating to assembly or event permits, to ensure compliance with case-law pertaining to reasonable restrictions on time, manner, and place of speech; and

WHEREAS, the Rome City Commission wishes to ensure that its regulations relating to assembly or event permits are content neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication; and

WHEREAS, the Rome City Commission wishes to ensure that its regulations set adequate standards for application of its time, manner, and place regulations, including the standards for any permit processing fee; and

WHEREAS, it is the intent of the Rome City Commission to ensure that any regulations relating to assembly or event permits comply with the First Amendment to the United States Constitution and Article I, Section I, Paragraph V, of the Constitution of the State of Georgia;

NOW, THEREFORE, the Rome City Commission hereby adopts this Ordinance as follows:

SECTION I:

BE IT ORDAINED by the Rome City Commission, and it is ordained by authority of the same, that Chapter 11, Article IX, Division 2 of the Code of the City of Rome, Georgia is hereby deleted in its entirety and replaced as follows:

Sec. 11-501. – Definitions and construction.

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

Assembly means any outdoor demonstration, rally, protest, march, parade, motorcade, procession of any kind, or similar display, consisting of persons, animals, or vehicles, or a combination thereof, having a common purpose, design, destination, or goal, which does not fit into any of the exclusions set forth herein. For purposes of this ordinance, *non-expressive events* (as defined herein) shall not be deemed to be an assembly.

Assembly permit or *Permit*, means a permit that is required under this Chapter 11, Article IX, Division 2, and which may sometimes require closing, obstructing, or limiting access (in whole or in part) to any public property.

Chief of Police means the Chief of the Rome Police Department and any designee(s) of the Chief of the Rome Police Department.

Non-expressive event means an event that involves neither expression of “the spoken or written word” nor “conduct that possesses sufficient communicative elements.” See *Texas v. Johnson*, 491 U.S. 397, 404 (1989). The following are examples of non-expressive events:

1. recreation (e.g., family gatherings, games, arts and crafts activities, reunions, birthday parties),
2. an event or occurrence sponsored by a governmental agency acting within the scope of its functions,
3. spectator sports (e.g., baseball, soccer, softball, basketball)
4. food-centered events (e.g., grilling, barbeques, picnics)
5. park or trail clean-ups
6. training activities (e.g., corporate sessions, team-building activities).

Public property is intended to include the following: (1) any public street, road, alley, sidewalk, trail (whether for walking, hiking, biking, or otherwise), right-of-way, or square within the City of Rome; (2) any public recreational property, public park, public parking lot or parking facility, public greenspace, and any other similar outdoor property owned or controlled by the City of Rome or one of its associated boards, commissions, or authorities that is usually accessible to the public; and/or (3) any building or structure owned or controlled by the City of Rome or one of its associated public boards, commissions, or authorities.

Recreational property or *recreational facility* shall have the same meaning as those terms are used in Title 51, Chapter 3, Article 2, of the Official Code of Georgia Annotated, unless the context clearly indicates otherwise.

Weapon means, solely for the purposes of this division, 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, or any club, bludgeon or any other instrumentality used, or intended to be used, as a dangerous weapon.

The following shall apply to the construction of this division, unless inconsistent with the manifest intent of the city commission:

Constitutionality. It is the intent of the city commission that this division comply in all aspects with the with the First Amendment to the United States Constitution and Article I, Section I, Paragraph V, of the Constitution of the State of Georgia, and this division should be read in such a manner. If a court of competent jurisdiction finds any phrase, clause, sentence, paragraph, or

section of the division to be unconstitutional, then it is the intent of the city commission that section 1-5 shall apply.

Gender. Whenever used herein, the masculine gender shall be construed to include the feminine gender, and vice versa, unless the context clearly indicates otherwise. If a gendered noun or pronoun is used, then it is intended to include firms, partnerships, corporations, limited liability companies, associations, non-profit organizations, and other such entities, unless the context clearly indicates otherwise.

Number. Words used in the singular include the plural, and words used in the plural include the singular.

Undefined terms. Words, terms, and phrases not otherwise defined in this division or in section 1-2 should be afforded their plain and usual meaning.

Sec. 11-502. –Permits.

Permit required. It shall be a violation of this code section to engage in, participate in, form, or start an assembly or event on public property without a valid permit, if required by this code section, unless an exemption or exception applies.

(a) When Permit is Required Regardless of Number of People

- (1) *Permits for assemblies on sidewalks.* Any person, organization, corporation, or other group wishing to have an assembly, regardless of the number of persons, during which a city sidewalk: (1) will be totally closed, blocked, or obstructed; (2) will be partially closed, blocked, or obstructed, leaving less than half of the sidewalk remaining; or (3) will otherwise be inaccessible to pedestrian traffic, must obtain a permit.
- (2) *Permits for assemblies on streets or other public rights-of-way.* Any person, organization, corporation, or other group wishing to have an assembly, regardless of the number of persons, during which any public street, road, alley, right-of-way, or square: (1) will be totally closed, blocked, or obstructed; (2) will be partially closed, blocked, or obstructed; or (3) will otherwise be inaccessible to pedestrian and/or vehicle traffic, as applicable, must obtain a permit.
- (3) *Permits for assemblies blocking ingress or egress to public facilities.* Any person, organization, corporation, or other group wishing to have an assembly, regardless of the number of persons, during which the regular means of ingress or egress to any public building, public park, public parking lot, public structure, or similar public facility will be blocked or obstructed, must obtain a permit.
- (4) *Permits for trails.* Any person, organization, corporation, or other group wishing to have an assembly, regardless of the number of persons, during which a city trail: (1) will be totally closed, blocked, or obstructed; (2) will be partially closed, blocked, or obstructed,

leaving less than half of the trail remaining; or (3) will otherwise be inaccessible to pedestrian, bicycle, or other approved types of traffic, must obtain a permit.

(5) *Permits for assemblies that use sound amplification that would otherwise violate the city's noise ordinances.* Any person, organization, corporation, or other group wishing to have an assembly, regardless of the number of persons, that utilizes an electronic sound amplification system on public property that would otherwise exceed the standards set forth in the noise ordinances of the city, must obtain a permit.

(b) Permit Required for any assembly of 25 or more Persons.

Subject to the other subsections of this code section, any person, organization, corporation, or other group wishing to have an assembly of 25 or more persons on public property must obtain an assembly permit.

(c) Permit Required for any event of 75 or more Persons.

Subject to the other subsections of this code section, any person, organization, corporation, or other group wishing to have an event of 75 or more persons on public property must obtain a permit.

Sec. 11-503. – Permit application.

(a) An applicant seeking the issuance of a permit shall file an application with the Chief of Police at the headquarters of the Rome Police Department. A permit shall be effective for 30 days from the date on which it is issued, but only for the dates and times explicitly denoted in the permit application and approved by the Chief of Police.

(b) Applications for permits must be filed with the Chief of Police not less than four days before the date on which the proposed assembly or event is to occur. A \$10 nonrefundable application processing fee must be paid at the time of filing the application.

(1) *Spontaneous-event exception.* Spontaneous assemblies or events that are occasioned by news or affairs coming into public knowledge less than four days prior to such an event may be conducted on the City Hall lawn or grounds, without the organizers first having to obtain a Permit. The City Hall lawn or grounds is the only area to which this exception applies.

(2) *Spontaneous-event application.* Organizers of such spontaneous events shall file an application as soon as practical.

(c) Applications for permits shall set forth the following information:

(1) The name, address, and telephone number of the person seeking to conduct such assembly or event.

- (2) If the assembly or event is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the organization's headquarters and the authorized and responsible heads of such organization.
- (3) If the assembly or event is to be held by, on behalf of, or for any person other than the applicant, the applicant shall file, in addition to the permit application, a written authorization from such person authorizing the applicant to apply for the permit on their behalf.
- (4) The name, address, and telephone number of the person who will be present at the assembly or event at all times and who will be responsible for the assembly or event and the conduct of its participants ("designee").
- (5) The date or dates of the assembly or event.
- (6) The hours when the assembly or event will start and end.
- (7) The exact location of the assembly or event, or if the assembly or event is processional or mobile, the specific route to be traveled.
- (8) The approximate number of persons, animals, and vehicles which will constitute the assembly or event, the type of animals and a description of the number and types of vehicles to be used during the assembly or event.
- (9) Whether sound amplification equipment will be employed, and, if so, a description of the equipment to be used sufficient to allow the Chief of Police to evaluate the application.
- (10) Whether artificial lighting will be employed and, if so, a description of the equipment to be used sufficient to allow the Chief of Police to evaluate the application.
- (11) Whether any temporary static structures will be constructed or employed, and if so, a description of the number and type of such structures sufficient to allow the Chief of Police to evaluate the application.
- (12) A description of the anticipated need for safety, police, medical, sanitation, and other required personnel or equipment.
- (13) Whether the applicant anticipates that any persons participating in the assembly or event will be carrying any signs, placards, posters, plaques, banners, flags, or similar items, including the anticipated materials and size of such items.
- (14) A disclosure as to whether the applicant or any entity for whom the application is being made is, or has been, a party to any legal action, criminal, civil, or administrative, arising out of any event of a nature substantially similar to the one proposed in the

application. And, if so, a brief factual summary, including the date and location, of any such events.

Sec. 11-504. – Review of application.

- (a) It is the intent of the City of Rome in enacting this division to reasonably regulate only the time, place, and manner of such assemblies and not to unduly burden, suppress, or regulate the content or message of any speech or expressive conduct contained therein. In furtherance of this intent:
- (1) No permit shall be denied, nor shall the applicant be given less favorable treatment as to the time, place, and manner of an assembly or event, on account of the race, color, creed, religion, gender, domestic relationship status, parental status, familial status, sexual orientation, national origin, political affiliation, or gender identity of the applicant and/or participants of the assembly or event.
 - (2) No permit shall be denied, nor shall the applicant be given less favorable treatment as to the time, place, and manner of an assembly or event, based upon the message of the assembly or event, the content of speech of the assembly or event, nor based on the identity or associational relationships of the applicant and/or participants.
 - (3) Nothing herein withstanding, reasonable accommodation as to time, place, and manner may be required in order for the city to ensure and preserve the rights and liberties of its citizens and the safety, health, and good order of its society.
- (b) Within four working days of the receipt of a fully completed, executed, and filed application, the Chief of Police shall review the application in light of the goals set forth above and the considerations provided below, and render a decision to grant or deny, in whole or in part, the application for an permit. If the permit is denied in whole or in part, the Chief of Police shall provide a written statement of the reasons for said denial to the applicant. Such written statement of denial shall be postmarked no later than four working days after receipt of a fully completed, executed, and filed application.
- (c) If the Chief of Police modifies the plans for the assembly or event as set forth in the application, a permit shall be issued to the applicant only upon the applicant's written acceptance of the Chief of Police's modifications.

Sec. 11-505. – Denial or revocation of permit.

- (a) The Chief of Police may deny an assembly or event permit, or revoke a previously granted permit, on upon the following considerations or combination of considerations:
- (1) The application does not contain all of the required information or materials, or the information is so incomplete, vague, or ambiguous as to prevent a meaningful review by the Chief of Police.

- (2) The application contains material omissions, falsehoods, or misrepresentations.
- (3) The applicant lacks authority to represent the entity for which the application is being made, or if a natural person, the applicant is legally incompetent to contract or to sue or be sued.
- (4) The applicant or entity for which the permit is sought has on prior occasions substantially damaged city streets, sidewalks, parks, and/or other city real or personal property.
- (5) The applicant or entity for which the permit is sought has on prior occasions materially violated permitting ordinances in connection with events of a substantially similar nature.
- (6) If the assembly or event is being held for an unlawful purpose, and/or violates a federal, state, or local law or ordinance.
- (7) The assembly or event would conflict with previously planned programs organized by the City of Rome or another governmental entity and previously scheduled for substantially the same time and place.
- (8) A fully executed prior application for an assembly or event permit has been granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of that particular space.
- (9) When, due to the scope of the assembly or event and the number of police, safety, or city personnel required to provide protection and traffic control for the assembly or event, and due to the need for police, safety, or city personnel elsewhere in the city, the assembly or event would require the diversion of such a number of police, safety, or city personnel that it will be more likely than not that normal police and safety protection elsewhere in the city cannot be provided continuously and safely for the duration of the assembly or event.
- (10) The assembly or event as proposed is likely to present an unreasonable danger to the health or safety of participants in the assembly or event or other members of the public (though not through the agency of any predicted reaction by onlookers or members of the public).
- (11) The assembly or event as proposed is likely to substantially restrict and/or congest traffic (vehicular or pedestrian) on any of the public roads, rights-of-way, sidewalks, or waterways in the immediate vicinity of such assembly or event.
- (12) Due to the city's substantial and compelling interest in ensuring the health and safety of its citizens, a permit may be denied and an assembly or event may be terminated for public safety reasons by the Chief of Police and/or the Chief of the Rome-Floyd County Fire Department.

- (b) If the Chief of Police denies or revokes a permit because of a conflict with a previously planned program or event organized by the City of Rome or another governmental entity or fully executed prior application for a permit has been granted to a prior applicant for a particular space, the Chief of Police is authorized to propose an alternative time and/or space for the requested assembly or event.

Sec. 11-506. – Appeals.

- (a) Upon receipt of any decision by the Chief of Police denying an application, the applicant may, within four business days, file a written notice of appeal with the City Manager.
- (b) The notice of appeal must succinctly state, in writing, the reasons why the applicant contends that the decision of the Chief of Police should be modified or reversed. The applicant must attach a copy of the pertinent application and the Chief of Police's written statement of denial.
- (c) The City Manager shall act upon the appeal within ten days after its receipt. Within three business days of the City Manager's decision to affirm, modify, or reverse the decision of the Chief of Police, the City Manager shall send written notice to the applicant of his or her decision.

Sec. 11-507. – Prohibited conduct during assemblies.

- (a) Regardless of whether a permit is required, or has been obtained, the following conduct shall not be permitted during any assembly or event:
 - (1) No person shall unreasonably hamper, obstruct, impede, or interfere with any assembly or event, or with any person, vehicle, or animal participating in or used in an assembly or event.
 - (2) No driver or vehicle shall drive between the vehicles or persons comprising an assembly or event when the vehicles or persons are in motion and are conspicuously designated as an assembly or event, unless specifically authorized to do so by law enforcement personnel.
 - (3) No person at an assembly or event shall carry or possess any weapon. This provision must be read in such a manner so as to not conflict with the Georgia Constitutional Carry Act of 2021, Senate Bill 319, as codified in Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated.
 - (4) No person at an assembly or event shall carry or possess any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, vinyl, paper, or flexible cardboard material no greater than one-quarter ($\frac{1}{4}$) inch in thickness.
 - (5) No person at an assembly or event shall carry or possess 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 (i) lumber or wood used to support or control puppets, so long as the lumber or wood is not detached from the puppets; and (ii) stilts, defined as two poles with footrests off the ground on which someone balances or walks, so long as each stilt does not exceed 15 feet in length and two inches by two inches in width.

- (6) No person at an assembly or event shall carry or possess any length of metal, or other similar hard or stiff material, whether solid or hollow, unless the person is carrying a flagpole and is a participant in a portion of the assembly or event that utilizes flags.
- (7) No person at an assembly or event shall carry or possess any length of plastic, except that hollow plastic may be used to support a sign, banner, placard or other similar display if: (i) the hollow plastic does not exceed three-quarter ($\frac{3}{4}$) inch in its thickest dimension; (ii) the hollow plastic does not exceed one-eighth ($\frac{1}{8}$) inch in wall thickness; (iii) the hollow plastic is not filled with any material, liquid, gas or solid; and (iv) both ends of the length of the hollow plastic shall be blunt, and not pointed.
- (8) No person at an assembly or event shall carry or possess any glass bottles, glass jars or glass containers of any kind, unless such glass container is a vial required to hold medication needed and utilized by an assembly or event participant, where such medication is customarily stored in a glass vial.
- (9) No person at an assembly or event shall carry or possess any 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.
- (10) No person at an assembly or event shall carry or possess any stones, rocks, or pieces of asphalt or concrete. No person at any assembly or event shall throw these materials or similarly hard and heavy materials during an assembly or event.
- (11) No person at an assembly or event shall carry or possess any spray paint cans.
- (12) No person at an assembly or event shall 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, 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.
- (13) No electronic sound amplification equipment shall used or employed during an assembly or event (except for a radio or recorder or other device which is possessed and used by an individual for his/her own enjoyment and is operated in such a manner so as to not interfere with the use and enjoyment of any other person), unless prior authorization from the Chief of Police is obtained.

- (14) No vehicles shall be used in an assembly or event, unless prior authorization from the Chief of Police is obtained.
 - (15) No person shall violate the terms of their assembly or event permit or deviate from the approved information submitted in the application for the permit, if the assembly or event is such that a permit is required.
 - (16) No person at an assembly or event shall attach, drape, or affix any sign, poster, plaque, notice, flag, banner, or other similar item to any City of Rome property, including, but not limited to, the streets, sidewalks, trees, buildings, or any other property of the city, unless prior authorization from the Chief of Police is obtained.
 - (17) No person engaged in, participating in, conducting, attending, or observing an assembly or event shall violate any federal, state, or local law or ordinance.
- (b) Nothing in this code section shall prohibit a disabled person from carrying, possessing, or using a wheelchair, cane, walker, or similar device necessary for providing mobility so that person may participate in an assembly or event.
 - (c) In his or her reasonable discretion, the Chief of Police shall have the authority, when necessary, to prohibit or restrict the parking of vehicles at or near an assembly or event and/or along an assembly or event route. In the event that the Chief of Police exercises such discretion, then clearly legible "no parking" signs must be placed in the designated locations. Any person violating such "no parking" signs may be issued a violation notice in accordance with section 12-129, and any violations of such "no parking" signs shall be civil violations as described in section 12-137 and section 12-138.
 - (d) Nothing in this code 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 code 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.
 - (e) Nothing in this code section shall prohibit duly authorized law enforcement officers acting in their official capacity from carrying or possessing materials, weapons, and/or devices used in the performance of their official duties.
 - (f) Nothing in this code section shall prohibit public safety personnel or employees of the city acting in their official capacities from carrying or possessing materials or devices used in the performance of their official duties.

Sec. 11-508. – Retention of permit.

The assembly or event designee shall be present during the entire assembly or event, and shall carry the permit during the entire assembly or event, including set-up and break-down. Upon request, the designee shall provide the permit to any City of Rome personnel.

Sec. 11-509 – Compliance with permit.

The applicant, designee, and all assembly or event participants shall comply with all of the permit terms, directions, and conditions, and with all applicable laws and sections of this division and other ordinances.

Sec. 11-510. – Penalty for violation of division.

Any person violating this division shall, upon conviction in the municipal court, be punished according to the provisions of section 1-9.

SECTION II:

BE IT ORDAINED by the Rome City Commission, and it is ordained by authority of the same, that Sections 11-511 through 11-519, found within Chapter 11, Article IX, Division 2 of the Code of the City of Rome, Georgia, shall remain marked as “Reserved.”

SECTION III:

BE IT ORDAINED by the Rome City Commission, and it is ordained by authority of the same, that the City Clerk, in consultation with the City Attorney, shall have the authority to correct any scrivener’s errors found within this Ordinance.

SECTION IV:

BE IT ORDAINED by the Rome City Commission, and it is ordained by authority of the same, that all ordinances or parts of ordinances in conflict herewith be, and the same are hereby, repealed.

ADOPTED, this ____ day of _____, 20 ____.

CITY OF ROME, GEORGIA

By: _____
Craig McDaniel, Mayor

Attest: _____
Joe Smith, Secretary
Rome City Commission