

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH GUIDELINES AND PERMITTING PROCESS FOR FIRST AMENDMENT ASSEMBLIES IN TOWN PARKS AND TOWN-OWNED PROPERTY

WHEREAS, the Town of Ocean View recognizes and respects the rights of individuals to engage in peaceful First Amendment activities, including assemblies, protests, and demonstrations; and

WHEREAS, the Town seeks to ensure that such activities are conducted in a manner that protects public safety, minimizes disruptions to the community, and preserves the rights and freedoms of all citizens; and

WHEREAS, the Town has a compelling interest in regulating the time, place, and manner of First Amendment assemblies to ensure public safety, protect public and private property, and maintain public order;

WHEREAS, the Town intends to make this ordinance Chapter 77 of the Town Code.

NOW, THEREFORE, be it ordained by the Town Council of the Town of Ocean View, Delaware:

Chapter 77. Assemblies, Orderly

§77-1 Intent.

The intent of this chapter is to:

- A. Protect the First Amendment rights of the citizens of the Town of Ocean View.

- 22 B. Promote the general health, safety and welfare of the community.
- 23 C. Ensure there are adequate numbers of Town personnel and first responders available to
- 24 provide proper services, if necessary, for the First Amendment Assembly.
- 25 D. Establish guidelines under which First Amendment Assemblies may be held.

26 **§77-2 Definitions.**

27 As used in this chapter, the following terms shall have the meanings indicated:

28 **First Amendment Assembly**

29 Any demonstration, march, rally, protest, or other gathering of individuals for the purpose
30 of expressing opinions or conveying messages protected by the First Amendment of the
31 United States Constitution.

32 **Permit**

33 A written authorization issued by the Town Manager permitting the holder to conduct a
34 First Amendment Assembly.

35 **Applicant**

36 The person or persons, organization, partnership, corporation or other entity required to
37 apply for a permit under this chapter.

38 **Disorderly Conduct**

39 Disorderly Conduct shall have the meaning as set forth in Title 11, Chapter 5, Section 1301
40 of the Delaware Code.

41 **Riot or Riot Acts**

42 Riot shall have the meaning as set forth in Title 11, Chapter 5, Section 1302 of the Delaware
43 Code.

44 **§77-3 Permit Required.**

45 A. All First Amendment Assemblies are prohibited unless an application for a permit is
46 submitted to the Town Manager at least thirty-six (36) hours prior to the Applicant's
47 proposed date for the First Amendment Assembly. The application shall include the
48 following information:

- 49 1) Name, address, and contact information of the organizer(s).
- 50 2) Date, time, and duration of the assembly.
- 51 3) Expected number of participants.
- 52 4) Detailed description of the event, including any planned activities.
- 53 5) Proposed location(s) within the Town that the assembly is to be held.
- 54 6) Purpose of assembly.
- 55 7) Organizer's list of proposed vendor(s) in charge of security, sanitation and cleanup
56 of the assembly.
- 57 8) Any additional information requested by the Town Manager or Chief of Police.

58 B. The Town Manager shall, within twenty-four (24) hours of receipt of an application for a
59 permit, review it and issue one of the following determinations:

- 60 1) Approved without conditions;
- 61 2) Approved with conditions as set out in §77-4 below; or
- 62 3) Denied with written notice to the Applicant stating the reason for denial pursuant
63 to §77-5 below.

64 **§77-4 Conditions.**

65 The Town Manager may, but is not required to, impose reasonable conditions in conjunction with
66 issuance of the permit. Those conditions can include but are not limited to the following:

- 67 1) Designation of specific areas for the assembly.
- 68 2) Restrictions on the time of day and duration of the assembly.
- 69 3) Requirements for security, sanitation, and cleanup.
- 70 4) Restrictions on number of attendees.

71 **§77-5 Denial.**

72 The Town Manager may deny any application for a permit to hold a First Amendment Assembly
73 if the purpose of the assembly does not align with the Town's intents as set forth in §77-1 above
74 or contains materially incomplete or false information.

75 **§ 77-6 Appeals.**

76 Any person aggrieved by the decision of the Town Manager may, within five (5) days, take an
77 appeal to the Town Council by giving written notice of his or her election to do so to the office of
78 the Town Manager. The Town Manager shall notify the Mayor, who shall call a meeting of the
79 Town Council to hear the appeal within in seventy-two (72) hours after giving notice of the
80 hearing in accordance with the special meeting provisions of the Delaware Freedom of Information
81 Act. The Applicant shall bear the cost of published notice of the meeting. Within ten (10) days
82 following the date of the hearing, the Town Council shall render a decision of the appeal.

83 **§77-7 Fees.**

84 The Town Manager shall not issue a permit for a First Amendment Assembly unless and until the
85 requisite permit fees have been paid. The fees for various sized assemblies and Town services shall
86 be imposed as follows:

87 A. For gatherings of less than fifty (50) people, the Town shall assess a permit fee of \$100.

88 B. For gatherings of fifty (50) or more people, the Town shall assess a permit fee of \$150
89 above, plus fees to cover expenses related to security, traffic control, sanitation, and
90 cleanup. The additional fees for security, traffic control, sanitation and cleanup shall only
91 be assessed if the Town Manager deems necessary and the Applicant did not specify
92 services for same on his or her application.

93 C. In the event the Applicant is a nonprofit organization, the Town Manager may, but is not
94 required to, waive or reduce fees if he or she deems it is in the public's best interest.

95 D. The Town Manager may add permit fees if needed to cover additional fees for Town
96 services.

97 **§77-8 General Restrictions.**

98 A. **Time Restrictions.** First Amendment Assemblies shall be restricted to the hours between
99 8:00 AM and 8:00 PM, inclusive of time needed for cleanup, unless otherwise specified in
100 the permit.

101 B. **Prohibited Items.** The possession of weapons, firearms, explosives, and other potentially
102 dangerous instruments is prohibited during First Amendment Assemblies. Additionally,
103 the wearing of masks or face coverings that conceal identity and any apparel generally

104 known as being a symbol of hate is expressly prohibited, except for attire that is religiously
105 or medically necessary.

106 **§77-9 Violations and Revocation.**

107 A. **Violations.** Violations of a First Amendment Assembly shall include, but are not limited
108 to, the following acts:

- 109 1) Failure to obtain a permit for a First Amendment Assembly;
- 110 2) Failure to satisfy permit conditions mandated by the Town Manager as stated in
111 §77-4 of this chapter;
- 112 3) Disorderly Conduct is committed by any person during the First Amendment
113 Assembly;
- 114 4) Rioting acts are committed by any person during the First Amendment Assembly;
- 115 5) Fraud, misrepresentations or a material and incorrect statement contained in the
116 application.

117 B. **Revocation.** The Town Manager may revoke a permit if the assembly commits any
118 violations as stated in §77-9(A) above.

119 C. **Penalties:** For any violation of the provisions of this Chapter, a fine shall be assessed in
120 the amount of \$500 and each day that the violation continues shall constitute a separable
121 offense punishable by like fine.

122 **§77-10 Severability.**

123 If any section, clause, or provision of this Ordinance is declared unconstitutional or invalid by a
124 court of competent jurisdiction, such declaration shall not affect the validity of the remainder of
125 the Ordinance.

126 **§77-11 Effective Date**

127 This Ordinance shall take effect immediately upon its adoption by the Town Council.

128 TOWN OF OCEAN VIEW

129 By: _____

130 Mayor

131 Attest: _____

132 Town Clerk

133 Introduction:

134 First Reading:

135 Second Reading:

136 Adopted: