

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; and

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:

Section 1. The Town hereby adopts a Chapter 77 to the Town of Ocean View Code to read as follows:

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

§77-2 Definitions.

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

First Amendment Assembly

31 Any demonstration, march, rally, protest, or other gathering of Ten (10) or more individuals
32 for the purpose of expressing opinions or conveying messages protected by the First
33 Amendment of the United States Constitution.

34 **Permit**

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

37 **Applicant**

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

40 **Disorderly Conduct**

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

43 **Riot or Riot Acts**

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

46 **§77-3 Permit Required.**

47 A. All First Amendment Assemblies to be held in Town Parks and on Town owned
48 property shall require a permit from the Town. Persons intending to hold a First
49 Amendment Assembly in a Town Park or on Town owned property shall file an application
50 with the Town Manager at least thirty-six (36) hours prior to the Applicant's proposed date
51 for the First Amendment Assembly. The application shall include the following
52 information:

- 53 1) Name, address, and contact information of the organizer(s).
- 54 2) Date, time, and duration of the assembly.
- 55 3) Expected number of participants.
- 56 4) Detailed description of the event, including any planned activities.
- 57 5) Proposed location(s) within the Town that the assembly is to be held.
- 58 6) Purpose of assembly.
- 59 7) Organizer's list of proposed vendor(s) in charge of security, sanitation and cleanup
60 of the assembly.

61 8) Any additional reasonable information requested by the Town Manager or the Chief
62 of Police.

63 The Town Manager may establish a form of application for First Amendment Assemblies
64 at his or her election and all Applicants shall be required to use the established form.
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66 B. The Town Manager and Chief of Police shall, within twenty-four (24) hours of
67 receipt of an application for a permit, review it and issue one of the following
68 determinations:

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

73 **§77-4 Conditions.**

74 After conferring with one another, the Town Manager and Chief of Police may jointly impose
75 reasonable conditions in conjunction with issuance of the permit in order to prevent public
76 endangerment, significant traffic congestion, and the deprivation of critical municipal services.

77 Those conditions can include but are not limited to the following:

- 78 1) Designation of specific areas for the assembly.
- 79 2) Restrictions on the time of day and duration of the assembly.
- 80 3) Requirements for security, sanitation, and cleanup.
- 81 4) Restrictions on number of attendees.

82 **§77-5 Denial.**

83 The Town Manager and Chief of Police may jointly deny any application for a permit to hold
84 a First Amendment Assembly if the purpose of the assembly does not align with the Town's
85 intents as set forth in §77-1 above by causing public endangerment, significant traffic
86 congestion and/or deprivation of critical municipal services or contains materially incomplete
87 or false information.

88 **§ 77-6 Appeals.**

89 Any person aggrieved by the decision of the Town Manager may, within five (5) days, take an
90 appeal to the Town Council by giving written notice of his or her election to do so to the office
91 of the Town Manager. The Town Manager shall notify the Mayor, who shall call a meeting of

92 the Town Council to hear the appeal within in seventy-two (72) hours after giving notice of
93 the hearing in accordance with the special meeting provisions of the Delaware Freedom of
94 Information Act. The Applicant shall bear the cost of published notice of the meeting. Within
95 ten (10) days following the date of the hearing, the Town Council shall render a decision of
96 the appeal.

97 **§77-7 Fees.**

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

101 A. For First Amendment Assemblies of less than fifty (50) people, the Town shall
102 assess a permit fee of \$100.

103 B. For First Amendment Assemblies of fifty (50) or more people, the Town shall
104 assess a permit fee of \$150, plus reasonable fees to cover actual expenses related to
105 security, traffic control, sanitation, and cleanup. The additional fees for security, traffic
106 control, sanitation and cleanup shall only be assessed if the Town Manager and Chief of
107 Police determine the Town incurred actual expenses related to providing security, traffic
108 control, sanitation and cleanup for the First Amendment Assembly and the Applicant did
109 not account for such services in his or her application and provide for them at the First
110 Amendment Assembly.

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112 **§77-8 General Restrictions.**

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

116 B. **Prohibited Items.** Unless otherwise permitted by state law, the possession of
117 weapons, firearms, explosives, and other potentially dangerous instruments is prohibited
118 during First Amendment Assemblies. Additionally, the wearing of masks or face coverings
119 that conceal identity is expressly prohibited.

120 **§77-9 Violations and Revocation.**

121 A. **Violations.** Violations of a First Amendment Assembly permit requirement shall
122 include, but are not limited to, the following acts:

- 123 1) Failure to obtain a permit for a First Amendment Assembly;
124 2) Failure to satisfy permit conditions mandated by the Town Manager as stated in
125 §77-4 of this chapter;
126 3) Disorderly Conduct is committed by any person during the First Amendment
127 Assembly;
128 4) Rioting acts are committed by any person during the First Amendment Assembly;
129 5) Fraud, misrepresentations or a material and incorrect statement contained in the
130 application.

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

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

136 **Section 2. Severability.**

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

140 **Section 3. Effective Date.**

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

142 **Section 4. Authorization.**

143 The Town Manager, or his or her designee, is hereby authorized and directed to take all necessary
144 actions to implement the provisions of this Ordinance.

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TOWN OF OCEAN VIEW

By: _____

Mayor

Attest: _____

Town Clerk

Introduction:

First Reading:

Second Reading:

154 Adopted:

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Synopsis

157 The purpose of this ordinance is to adopt reasonable time, place and manner restrictions on First
158 Amendment Assemblies that occur in Town Parks and on Town Property to protect public safety
159 and minimizing community disruption while preserving the right and freedoms of all citizens to
160 exercise their First Amendment right.