

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**

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

**Permit**

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

**Applicant**

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

**Disorderly Conduct**

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

**Riot or Riot Acts**

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

**§77-3 Permit Required.**

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

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

65  
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               intent 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

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

#### **§77-7 Fees.**

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

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

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

#### **§77-8 General Restrictions.**

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

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

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

A. **Violations.** Violations of a First Amendment Assembly permit requirement shall 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.

146 TOWN OF OCEAN VIEW

147 By: \_\_\_\_\_

148 Mayor

149 Attest: \_\_\_\_\_

150 Town Clerk

151 Introduction:

152 First Reading:

153 Second Reading:

154 Adopted:

155

156 Synopsis

157 The purpose of this ordinance is to adopt reasonable time, place and manner restrictions on First  
158 Amendment Assemblies the 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.