

# **An Ordinance Concerning Parades, Races and Public Assemblies**

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## **Section 1. Permit required.**

(a) No person shall engage in or conduct any parade, race or public assembly without a permit issued by the chief of police or town manager

## **Section 2. Definitions.**

(a) *Chief of police* means the chief of police of the town or his/her designee.

(b) *Parade* means any march, demonstration, procession, or motorcade, consisting of persons, animals or vehicles or a combination thereof upon the streets, sidewalks or other public grounds within the town that interferes with the normal flow or regulation of traffic upon the streets, sidewalks or other public grounds.

(c) *Parade, race or public assembly permit* means a permit as required by this chapter.

(d) *Park* means an area owned or maintained by the Town of Walnut Cove and used for the purpose of community gatherings, private functions, and recreation

(e) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(f) *Public assembly* means any meeting, demonstration, picket line, rally or gathering of more than three (3) persons for a common purpose as a result of prior planning or membership in an organization, association, or other unit in or upon any street, sidewalk or other public grounds in a place open to the general public.

(g) *Race* means any scheduled public event or gathering of persons for athletic events that move from one location to another such as bicycle or running races.

(h) *Sidewalk* is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

(i) *Street* is any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way or median strip thereof.

(j) *Town* means the Town of Walnut Cove

(j) *Town manager* means the Town Manager of Walnut Cove or his/her designee

## **Section 3. Exceptions.**

The permit requirement described in Section 1 shall not apply to the following:

(a) Funeral processions;

(b) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities; and

(c) A governmental agency acting within the scope of its functions

#### **Section 4. Application.**

(a) A person seeking a parade, race or public assembly permit shall file an application with the chief of police or town manager on forms provided by the Town and the application shall be signed by the applicant under oath. In order to ensure the timely appeal in the event of a permit denial, it is recommended that applications be filed at least sixty (60) days prior to the event. Nevertheless, any application filed within the minimum filing periods prescribed in subsection (b) below, shall be processed during business hours.

(b) For single, nonrecurring parades, races or public assemblies, an application for a permit shall be filed with the town as follows:

(1) At least seven (7) business days in advance of the proposed event for parades or races of less than two hundred (200) participants and less than thirty (30) vehicles and animals;

(2) At least ten (10) business days in advance of the proposed event for parades or races of two hundred (200) or more participants, or thirty (30) or more vehicles and animals:

(3) At least five (5) calendar days in advance of the proposed event for public assemblies of less than one hundred (100) participants which will not interfere with the normal flow or regulation of vehicular traffic;

(4) At least seven (7) business days in advance of the proposed event for public assemblies of one hundred (100) or more participants or which will, regardless of size, interfere with the normal flow or regulation of vehicular traffic;

(5) No application shall be filed more than one hundred eighty (180) days before the parade, race or public assembly is proposed to commence.

(c) For parades, races or public assemblies held on a regular or recurring basis at the same location, a separate permit shall be required for parades, races or public assemblies for each two (2) week period.

(d) For parades, races or public assemblies held on a regular or recurring basis at the same location, an application for a permit covering all such parades, races or public assemblies during that calendar year may be filed with the chief of police or town manager at least sixty (60) and not more than one hundred eighty (180) days before the date and time at which the first such parade, race or public assembly is proposed to commence. The chief of police or town manager may waive the minimum sixty (60) days period after due consideration of the factors specified in subsection (b)(6) above.

(e) The application for a parade, race or public assembly permit shall set forth the following information in writing:

(1) The name, address and telephone number of the person seeking to conduct such parade, race or public assembly; this person should be the person in charge or chairperson of the parade, race or public assembly;

(2) The names, addresses and telephone numbers of the headquarters of the organization for which the parade, race or public assembly is to be conducted, if any, and the authorized and responsible heads of the organization;

(3) The requested date(s) of the parade, race or public assembly;

(4) The location of the parade, race or public assembly and the route to be traveled, including the starting point and the termination point;

(5) The hours when such parade, race or public assembly will start and terminate;

(6) The statement as to whether the parade, race or public assembly will occupy all or only a portion of the width of the streets or sidewalks proposed to be traversed;

- (7) The location by street of any assembly areas for such parade, race or public assembly;
- (8) The time at which units of the parade, race or public assembly will begin to assemble at any such area;
- (9) The intervals of space to be maintained between units of such parade or public assembly;
- (10) If the parade, race or public assembly is designed to be held by, or on behalf of, any person other than the applicant, the applicant for such permit shall file a letter from that person with the chief of police or town manager or town manager authorizing the applicant to apply for the permit on his behalf;
- (11) The type of parade, race or public assembly, including a description of activities planned during the event;
- (12) A description of any sound amplification equipment to be used in connection with the parade, race or public assembly;
- (13) The approximate number of participants (spectators are by definition not participants), including the type and number of animals and vehicles;
- (14) The approximate number of spectators reasonably anticipated;
- (15) A designation of any public facilities or equipment to be utilized; and
- (16) Where the event is in an area covering two blocks or less of sidewalks, streets or other public property, the addresses of any properties that abut the location of the parade, race or public assembly;
- (17) Where the event is in an area covering two (2) blocks or less of sidewalks, streets or other public property, a signed statement by the permit applicant stating that all the addresses of any properties that abut the location of the parade, race or public assembly, have received notification of the event.
- (18) Any additional information that the chief of police or town manager finds reasonably necessary to a fair determination as to whether a permit should issue.

#### **Section 5. Fees.**

- (a) If the application is for the use of any town property or if any town services shall be required for the parade, race or public assembly, the applicant shall pay, prior to the issuance of a permit, the charges for those services in accordance with a schedule of service costs approved by the Town Board of Commissioners by resolution.
- (b) The chief of police or town manager shall determine whether, and to what extent, additional police protection is reasonably necessary for a parade, race or public assembly for traffic control and public safety. The chief of police or town manager shall base this decision on the following factors:
  - (1) *Staging.*
    - a. The number of streets or sidewalks to be controlled and/or closed;
    - b. The type of street or sidewalk to be controlled and/or closed, which shall take into consideration the vehicular and pedestrian traffic flow on the street or sidewalk;
    - c. The time of day and day of week of the event;
    - d. The amount of vehicular and pedestrian traffic required to be rerouted as a result of the event;
    - e. The number of electric traffic control devices that are required to be operated manually by police officers as a result of the event;

- f. The number of traffic/pedestrian control cones and parade barricades that are required to be used as a result of the event;
- g. The characteristics of the event and the area of the event, to include the type and volume of the event traffic and the speed limits of the area. The type of traffic could include, but is not limited to, types of vehicles, pedestrian, and animals in the event; and
- h. The number of supervisors with the requirement that there be at least one (1) supervisor if there are five (5) or more officers assigned to the event.

(2) *Event control point.*

- a. The number and size of intersections to be controlled or closed; and
- b. The number of supervisors required as set forth above.

(3) *Event.*

- a. Whether or not the sponsors are requesting a ceremonial parade escort;
- b. The size of the event in terms of the number of participants, spectators, vehicles and animals;
- c. The time of day and day of week of the event;
- d. The number of residences and businesses that are affected by the event; and
- e. The type of intersections that are affected by the event.

(4) *Disbanding.*

- a. Size and characteristics of the event.

(c) The speech content of the event shall not be a factor in determining the amount of police protection necessary for the purposes of assessing a fee.

(d) If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection for the event is deemed necessary by the chief of police or town manager upon consideration of the factors set forth in subsection

(c), he shall so inform the applicant for the permit. The applicant must then pay for the additional police services at the established formula rates. The established formula rate for regular on-duty officers is regular salary, plus regular fringe benefits, plus regular worker compensation. The established formula rate for overtime officers is overtime salary, plus overtime fringe benefits, plus overtime worker compensation. All formula salary and fringe benefit rates are established at the ten-year rate for each officer's rank, as found in the current town police federation agreement plus the current worker compensation rates for the police department.

## **Section 6. Standards for issuance.**

(a) The chief of police or town manager shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (1) The conduct of the parade, race or public assembly will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;
- (2) The conduct of the parade, race or public assembly will not require the diversion of so great a number of town police officers to properly police the line of movement and the areas contiguous thereto that the deployment of police services for the proposed parade, race or public assembly would have an immediate and adverse effect upon the welfare and safety of persons and property;
- (3) The concentration of vehicles, persons and animals at public assembly points of the parade, race or public assembly will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such parade, race or public assembly;

(4) The conduct of the parade, race or public assembly is not reasonably likely to cause injury to persons or property and will not, on its face, violate any federal, state or town law, regulation, or ordinance;

(5) The parade, race or public assembly is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

(6) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any parade, race or public assembly areas;

(7) There are sufficient parking places near the beginning and end sites of the parade, race or public assembly to accommodate the number of vehicles reasonably expected;

(8) The applicant has paid all fees required under Section 5;

(9) No parade, race or public assembly permit application for the same time and location is already granted, or has been received and will be granted, and no event listed in Section 3 is already scheduled for the same time and location;

(10) The conduct of the parade, race or public assembly will not interfere with previously scheduled construction or maintenance projects upon or along streets or sidewalks;

(11) No parade, race or public assembly permit application for the same time but different location is already granted or has been received and will be granted, and the police resources required for that prior parade, race or public assembly are so great that, in combination with the subsequent proposed permit, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property; and

(12) No event is scheduled elsewhere in the town where the police resources required for that event are so great that the deployment of police services for the proposed parade, race or public assembly would have an immediate and adverse effect upon the welfare and safety of persons and property.

(b) No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a town street, sidewalk or right-of-way unless advance approval for the erection or replacement of the structure is obtained from the Town Board of Commissioners.

(c) No permit shall be granted that allows a parade, race or public assembly to occur between the hours of 11:00 p.m. and 7:00 a.m.

(d) In determining whether to grant or deny a permit, the chief of police or town manager shall not consider:

(1) The content of the speech, message, views or expression of the parade, race or public assembly or its participants;

(2) The potential conduct of spectators and other nonparticipants in response or reaction to the content of the speech, message, views or expression of the parade, race or public assembly or its participants.

### **Section 7. Nondiscrimination.**

The chief of police or town manager shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this chapter based upon speech content or upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

### **Section 8. Notice of grant or denial of application.**

(a) The chief of police or town manager shall act promptly upon a timely filed application for a parade, race or public assembly permit but in no event shall grant or deny a permit less than forty-eight (48) hours prior to the event. Applications filed more than thirty (30) days in advance of the proposed event shall be processed within seven (7) days. Applications filed more than sixty (60) days in advance of the event shall be processed within twenty-one (21) days.

(b) If the chief of police or town manager waives the minimum filing period and accepts for processing an untimely application, he shall act upon the application as expeditiously as possible, but must grant or deny the permit prior to the commencement of the proposed event.

(c) If the chief of police or town manager disapproves the application, he shall promptly notify the applicant of his action in writing, either by personal delivery or certified mail, and state the reasons for denial.

### **Section 9. Alternative permit.**

(a) The chief of police or town manager, in denying an application for a parade, race or public assembly permit, may authorize the conduct of the parade, race or public assembly at a date, time, location, or route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the chief of police or town manager, file a written notice of acceptance with the chief of police or town manager.

(b) An alternate parade, race or public assembly permit shall conform to the requirements of, and shall have the effect of, a parade, race or public assembly permit issued under this chapter.

### **Section 10. Appeal procedure.**

(a) Any applicant shall have the right to appeal the denial of a parade, race or public assembly permit to the Town Board of Commissioners. The denied applicant shall make the appeal within five (5) days after receipt of the denial by filing a written notice with the chief of police or town manager and a copy of the notice with the town clerk. The Town Board of Commissioners shall act upon the appeal at the next scheduled meeting following receipt of the notice of appeal.

(b) In the event that the Town Board of Commissioners rejects an applicant's appeal, the applicant may file an immediate request for review with a court of competent jurisdiction.

### **Section 11. Notice to town and other officials.**

Immediately upon the issuance of a parade, race or public assembly permit, the chief of police or town manager shall send a copy thereof to the following:

- (a) The mayor;
- (b) The fire chief;
- (c) The director of the department of public works; and
- (d) The Town Board of Commissioners.

### **Section 12. Contents of permit.**

Each parade, race or public assembly permit shall state the following information:

- (a) Starting and approximate ending time;
- (b) Minimum speed of parade units;
- (c) Maximum speed of parade units;

- (d) Maximum interval of space to be maintained between parade units;
- (e) The portions of the streets that may be occupied by the parade, race or public assembly;
- (f) The maximum length of the parade or race in miles or fractions thereof; and
- (g) Such other information as the chief of police or town manager shall find necessary to the enforcement of this chapter.

**Section 13. Duties of permitted.**

- (a) A permitted hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances; and
- (b) The parade, race or public assembly chairperson or other person in charge of such activity shall carry the parade, race or public assembly permit upon their person during the conduct of the parade, race or public assembly.

**Section 14. Prohibitions.**

The following prohibitions shall apply to all parades, races and public assemblies:

- (a) It shall be unlawful for any person to stage, present or conduct any parade, race or public assembly without first having obtained a permit as herein provided;
- (b) It shall be unlawful for any person to participate in a parade, race or public assembly for which the person knows a permit has not been granted;
- (c) It shall be unlawful for the chairperson or any person in charge of, or responsible for the conduct of, a duly licensed parade, race or public assembly to knowingly fail to comply with any condition of the permit;
- (d) It shall be unlawful for any person to engage in any parade, race or public assembly activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property;
- (e) It shall be unlawful for any person participating in any parade, race or public assembly to carry or possess any length of metal, lumber, wood, or similar material for purposes of displaying a sign, poster, plaque or notice, unless such object is two inches (2") or less in thickness and two inches (2") or less in width, or if not generally rectangular in shape, such object shall not exceed two inches (2") in its thickest dimension;
- (f) It shall be unlawful for any person participating in a parade, race or public assembly to utilize sound amplification equipment at decibel levels that exceed those limits imposed by federal, state or town law, regulation, or ordinance; and
- (g) It shall be unlawful for any person to ride, drive, or cause to be ridden or driven, any animal or any animal-drawn vehicle upon any public street, unless specifically authorized by the permit.
- (h) It shall be unlawful for any individual or group participating in a parade, race or public assembly to conduct such parade, race or public assembly outside of the scope of the issued permit. For the purpose of this section, the scope of the permit is the information provided on the application as required in Section 4(e) of this Ordinance.

**Section 15. Public conduct during parades, races or public assemblies.**

(a) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade, race or public assembly or with any person, vehicle or animal participating or used in a parade, race or public assembly;

(b) No driver of a vehicle shall drive between the vehicles or persons comprising a parade, race or public assembly when such vehicles or persons are in motion and are conspicuously designated as a parade, race or public assembly; and

(c) The chief of police or town manager shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a parade, race or public assembly. The chief of police or town manager shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.

**Section 16. Revocation of permit.**

The chief of police or town manager shall have the authority to revoke a parade, race or public assembly permit instantly upon violation of the conditions or standards for issuance as set forth in this chapter or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the parade, race or public assembly would have an immediate and adverse effect upon the welfare and safety of persons or property.

**Section 17. Penalties.**

(a) Any person violating the provisions of any section of this chapter shall be guilty of a misdemeanor.

(b) Any person or entity found to be in violation of any provision of this ordinance shall also be subject to a civil penalty in the amount of \$100.00 per violation.

**Section 18. Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

**Section 18. Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this division are hereby repealed to the extent of such inconsistency or conflict.