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New Ordinances

Spring Issue

Listed below are the topics of some new ordinances we have seen recently and/or been requested to furnish Ohio municipalities. Please contact us if we can be of assistance to you in these or other areas. We would appreciate it if you would limit your request to a maximum of three topics.

1. Use of Mobile Telephones While Operating a Motor Vehicle
2. Failure to Secure Firearms
3. Temporary Outdoor Sales of Garden Supplies; Etc.
4. Professional Design Firms and Construction Managers
5. Wildlife Harvesting
6. Council Disclosure of Confidential Information
7. Picketing
8. Tree Lawn Maintenance
9. Roller Blades and Skateboards
10. Well Field Protection
11. Recreational Vehicle Parking
12. Nuisance Abatement
13. Citizens Advisory Board on Police/Community Relations
14. Civil Penalties for Automated Red Light System Violations
15. Satellite Dish Antennas (Compliance With Telecommunications Act of 1996)
16. Fixed Asset Policy
17. Outdoor Pay Telephones
18. Banners
19. Construction Vehicle Staging Area

	New Ordinances Adopted	1
	New Addresses	2
contents...	Y2K Disclosure Statement	2
	State Traffic and Criminal Law Changes	2
	Recent Court Decisions	4
	Parades and Assemblages	7

II. NEW ADDRESSES

Please Note if you have not already done so that we have moved from Suite 180 to Suite 420. Our E-Mail address is whdrane1@aol.com. Visit our Web Site at www.walterdrane.com.

III. Y2K DISCLOSURE STATEMENT

The Walter H. Drane Company Compliance Plan has been in place since January 1997. It includes:

- (1) Upgrading all computer systems to pentiums, 233's and above.
- (2) Upgrading all on-the-shelf software such as Word Processing (Microsoft Word, Corel 8, etc.)
- (3) Upgrading spreadsheet packages.
- (4) Upgrading all database.
- (5) Upgrading all server systems and firmware.
- (6) Lastly, upgrading all accounting and manufacturing software.

The process will correct any date input and output, and perform calculations and comparisons on dates or portions of dates. Dates will function accurately and without interruption before, during and after January 1, 2000.

IV. STATE TRAFFIC AND CRIMINAL LAW CHANGES

The following sections of our model Traffic and General Offenses Codes have been modified to accord with legislation passed by the General Assembly since the last newsletter. If our agreement with your municipality so provides, we will incorporate these amendments in the next supplement we prepare for your code.

<u>Section No.</u>	<u>ORC</u>	<u>Bill No.</u>	<u>Effective Date</u>	<u>Title and Description</u>
541.07	2927.11	HB 429	9-30-98	DESECRATION. (Adds prohibition of desecrating cemeteries.)
335.031, 335.99	4507.071, 4507.99	SB 35	1-1-99	DRIVING WITH PROBATIONARY LICENSE; CURFEW. (Adds new offense.)
331.38	4511.75	HB 618	3-22-99	STOPPING FOR SCHOOL BUS. (Adds "children attending a head start program" to coverage under the section.)
335.99	4549.99	HB 618	3-22-99	PENALTY. (Reclassifies a second offense for leaving the scene of an accident as a felony.)

<u>Section No.</u>	<u>ORC</u>	<u>Bill No.</u>	<u>Effective Date</u>	<u>Title and Description</u>
537.051	2903.211	SB 215	3-30-99	MENACING BY STALKING. (Modifies conditions under which second offense is a

felony.)

537.10	2917.21	HB 565 SB 215	3-30-99	TELECOMMUNICATION HARASSMENT. (Changes offense from “telephone” to “telecommunications” harassment and modifies conditions under which second offense is a felony.)
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V. RECENT COURT DECISIONS

Listed below are some recent decisions involving Ohio municipal ordinances. Please let us know if you would like to obtain a copy of any of these decisions.

SOUNDMAKING DEVICES IN MOTOR VEHICLE

City of Tiffin v. McEwen, Third District Court of Appeals, Seneca County C 13-98-28 (November 20, 1998). The Third District Court of Appeals upheld the constitutionality of Section 509.11(a) of the Tiffin Codified Ordinances which provides in part as follows:

- (a) It is unlawful for any person operating or occupying a motor vehicle within the City to operate or amplify the sound produced by a radio, tape player or other soundmaking device or instrument from within the motor vehicle so that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle.

Although the trial court had found the ordinance to be unconstitutional, the Court of Appeals held that the section met the six-fold test for the valid exercise of municipal police powers set forth in *Hausman v. Dayton* (1995), 73 Ohio St. 3d 671, 678. Applying that text the Court determined:

- (1) The ordinance directly promotes the general welfare and safety of the community by reducing noise pollution,
- (2) Is reasonable in targeting only sounds “plainly audible” at a distance of one hundred feet,
- (3) The restrictions on amplified noise from motor vehicles are suitable to achieving the goal of reducing noise pollution for the welfare and safety of the community,
- (4) The ordinance operates impartially and without regard to content on all amplified sounds from motor vehicles “plainly audible” at a distance of one hundred feet,
- (5) Has a real and substantial relation to the purpose of reducing noise pollution, and
- (6) Does not interfere with the First Amendment rights of defendants beyond what is necessitated to achieve its goals.

RESTRICTED GROWTH ZONING ORDINANCE

Schenck v. City of Hudson, 997 F. Supp. 902 (N.D. Ohio 1998). The City of Hudson passed a zoning regulation limiting the number of residential dwellings that could be constructed each year in order to avoid undue pressure on the City's infrastructure and maintain parity in residential and nonresidential growth. A lottery process was used to determine which applicants in the pool would receive residential development allotments. The Federal District Courts upheld the constitutionality of the ordinance insofar as violations of the Due Process Equal Protection and Contracts Clauses of the U.S. Constitution were alleged. The Court determined that the City's objectives were proper and the means chosen were rationally related to the achievement of these objectives. The Court found no suspect classification or fundamental rights involved. Therefore it only need be shown that the classifications have some rational relationship to the City's purposes. Finally, the Court concluded that the ordinance was a proper exercise of the City's police power which could not be denied based on incidental or collateral effects on private contracts.

BARKING DOGS

City of Cuyahoga Falls v. Vogel, Ninth District Court of Appeals, Summit C.A. 18826C, September 16, 1998. Defendant was convicted for allowing his dog to bark in violation of Section 505.09(a)(2) of the Cuyahoga Falls Codified Ordinances which provides as follows:

505.09 Nuisance Conditions Prohibited.

- (a) No person shall keep or harbor any animal or fowl in the Municipality including that portion of the Municipality formerly known as Northampton Township:
 - (2) Which, by frequent and habitual barking, howling, yelping or any other nuisance, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality.

Testimony in the Municipal Court indicated that neighbors listened to the dog bark approximately two hours before calling police. A police officer then listened to the dog bark for fifteen to twenty minutes and issued a citation to defendant. Among other issues, defendant contended that dog ownership was a fundamental constitutional right and the ordinance could not pass a test of strict scrutiny. The Court of Appeals, however, in upholding defendant's conviction, concluded that the relationship between a person and the person's dog did not rise to the level of a fundamental right. Therefore the "rational basis" test was the proper test to be employed in determining whether or not defendant's right to due process was violated. The Court of Appeals held that the ordinance bore "a real and substantial relationship to the general welfare of the public", and was "rationally related to a legitimate governmental interest".

SOLICITATIONS IN PUBLIC STREETS

Cleveland v. Ezell (1997), 121 Ohio App. 3d 570. Defendants were convicted of violating Cleveland Codified Ordinances Sections 471.06(c) and (d) by entering the street to sell newspapers when the traffic was stopped at a red light. Section 471.06(c) and (d) provide as follows:

- (c) No person shall stand on a street or highway and transfer any item, object or package for currency or anything of value to motorists or passengers of any vehicle.

The defendants contended that the two subsections were impermissibly vague and overbroad. The Court of Appeals rejected both arguments. It found that such terms as “hailing”, “waving arms” and “transferring any items or object” were clear and precise. Therefore defendants were fairly apprised of what conduct was prohibited by the ordinance. In like manner the Court held that the ordinance was not overbroad on its face. An ordinance or statute is impermissibly overbroad if it contains a significant amount of constitutionally protected activity within that activity which is prohibited. The defendants failed to show that a significant amount of constitutionally protected activity was made unlawful by enforcement of the ordinance.

BULK STORAGE OF PROPANE GAS

Helt Enterprises, Inc. v. Willoughby, Eleventh District Court of Appeals, Lake C-97-L-094 (August 28, 1998). Section 1501.13 of the Willoughby Codified Ordinances prohibited the bulk storage of liquefied petroleum gas in all areas of the City except those classified as general industrial districts under the zoning code. Helt wanted to install a propane storage tank to be used in conjunction with his store in a retail shopping plaza in order to provide propane gas to his customers. Helt presented evidence in the trial court to show that such installation could be made in a safe manner. Nevertheless the trial court and Court of Appeals upheld the constitutionality of the ordinance. The City presented evidence to show the inherent dangers involved in bulk propane storage. Helt failed to show that the City acted in an unreasonable, arbitrary or confiscatory manner in adopting the ordinance. Since the burden was on Helt to show that the ordinance did not advance a legitimate governmental interest, the Court of Appeals declined to pass judgment on Council’s wisdom in adopting the ordinance.

POWER OF REFERENDUM UNDER CHARTER

Buckeye Community Hope Found. v. Cuyahoga Falls (1998), 82 Ohio St. 3d 539. Upon a motion for reconsideration, the Ohio Supreme Court reversed its holding in Buckeye Community Hope Found v. Cuyahoga Falls (1998), 81 Ohio St. 3d 559, as reported in our July 1998 newsletter. At issue was the question of whether an ordinance that is administrative and not legislative in nature is subject to the power of referendum. Section 1 of Article II of the Ohio Constitution provides, “The initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized by law to control by legislation action; such powers may be exercised in the manner now or hereafter provided by law.” Section 2, Article IX of the Cuyahoga Falls Charter provides that “the electors shall have the power to approve or reject at the polls

any ordinance or resolution passed by the Council....”. Although the City Charter provision purports to apply to any ordinance or resolution, the Supreme Court held that such power of referendum is limited to legislative action by Council. It found that Section 1 of Article II of the Ohio Constitution is the sole Constitutional source for referendum powers. By the terms of that provision such power is limited to “legislative action”. The Court therefore concluded that while a charter could vary procedures for implementing referendum powers, it could not expand or diminish the specific powers granted by the Constitution.

JUVENILE CURFEW

In re Spagnoletti (1997), 122 Ohio App. 3d 683. Defendant was found to be an unruly child based on his violation of the Mentor curfew ordinance. The ordinance prohibited minors between 16 and 18 years of age from being in public places between the hours of 12:00 midnight and 5:00 a.m. The only exception was for a minor “accompanied by a parent, guardian or some responsible person over the age of 21 years of age, or a member of said child’s family over 18 years of age.” The Eleventh District Court of Appeals reversed the finding of the Lake County Court of Common Pleas and held that the Mentor ordinance was unconstitutionally overbroad. The Court of Appeals noted in its analysis that there are two constitutional tests that could be employed. One is the “rational basis” test in which it has to be determined if the ordinance is reasonably related to a legitimate municipal interest. If, however, a fundamental right is involved such as the right to free movement, then the “strict scrutiny” test is the proper test to be utilized. Under the “strict scrutiny” test the ordinance could be upheld only if it can be shown that there is a compelling municipal interest to justify such a restriction. The Court of Appeals concluded that even under the more lenient “rational basis” test the ordinance was unconstitutional. The ordinance was so broadly drawn that in balancing the interests of the minor and those of the municipality, there were simply too many innocuous activities of minors swept under the prohibitions contained in the ordinance. On that basis the ordinance was deemed to be unconstitutionally overbroad.

VI. PARADES AND ASSEMBLAGES

COMMENT

The sudden appearance of the Knights of the Ku Klux Klan or similar groups wanting to conduct a parade or rally has had many Ohio municipalities scurrying to their Codified Ordinances to see what regulations are in place to cover such activities. These situations point to the need for all Ohio municipalities to have a workable parade and public assembly ordinance in place which stands a reasonable chance of passing constitutional muster.

Courts have long recognized the rights of municipalities to regulate parades and assemblies. There are two basic tests that they employ to determine if such an ordinance is constitutional. The first is whether the licensing scheme contains procedural safeguards to ensure that unpopular ideas are not censored by the licensing authority.¹ The second is whether the ordinance contains reasonable time, place and manner restrictions that are content-neutral, narrowly tailored to serve a significant government interest and leave open ample alternative channels of communication.²

(a) The ordinance must contain definite standards to be used by the issuing authority in evaluating the permit application.³ The period of notice required to obtain a permit can’t be excessive. For example, twenty days advance notice has been held to be unreasonable.⁴ The ordinance should also contain an explicit time limit by which the issuing official must grant or deny the permit.⁵

(b) The municipality may impose a permit fee incidental to the administration of the ordinance and the maintenance of public order.⁶ The applicant may be required to pay a predetermined cost for the maintenance of traffic control along the proposed route. The content of the message, e.g., potential hostile reaction to the parade or assembly, can not be a factor in determining the cost.

(c) The ordinance can impose reasonable time restrictions on parades and assemblies and regulate the location of a public assembly or route of a parade. In this context, the public safety is one factor that may be considered.⁷ A complete ban on such activity in any traditional public forum such as residential streets will not be viewed as “narrowly tailored” to serve significant governmental interests.⁸ The municipality may limit the use of the public forum to one applicant at a time.⁹

(d) An organization’s right to associate for expressive purposes precludes its being compelled to include within the parade or assembly any participants who have dissimilar views.¹⁰

The ordinance set forth below is one modeled on the parade and public assemblies ordinance promulgated by the International Municipal Law Association. We have tailored the ordinance to our numbering system and made a few other nonsubstantive changes.

1. Freedman v. Maryland, 380 U.S. 51 (1965).
2. United States v. Grace, 461 U.S. 171 (1983).
3. Shuttlesworth v. Birmingham, 394 U.S. 147 (1969); Invisible Empire, KKK v. Mayor Et Al. of Thurmont, 700 F. Supp. 281 (D. Md. 1988).
4. NAA. CP. Western Region v. City of Richmond, 743 F. 2d 1346 (9th Cir. 1984).
5. McDonald v. Safir, 26 F. Supp. 2d 664 (S.D.N.Y. 1998).
6. Cox v. New Hampshire, 312 U.S. 569 (1941); Stonewall Union v. City of Columbus, 931 F. 2d 1130 (6th Cir. 1991).
7. United Food and Commercial Workers v. City of Valdosta, 861 F. Supp. 1570 (M.D. Ga. 1994); Nationalist Movement v. City of Cumming, Ga., 92 F. 3d 1135 (11th Cir. 1996). Christian Knights of the KKK v. Dist. of Columbia 919 F. 2d 148 (D.C. Cir. 1990).
8. United Food and Commercial Workers v. City of Valdosta, 861 F. Supp. 1570 (M.D. Sec. 1994).
9. Irish Lesbian and Gay Organization v. Bratton, 882 F. Supp. 315 (S.D.N.Y. 1995).
10. Hurley v. Irish-American Gay Group of Boston, 115 S. Ct. 2338 (1995); South Boston Allied War Veterans Council v. Boston 875 F. Supp. 891 (D. Mass. 1995); Schwitzgebel v. City of Strongsville, 898 F. Supp. 1208 (N.D. Ohio 1995).

CHAPTER 309
Parades and Assemblages

309.01	Definitions.	309.11	Appeal procedure.
309.02	Permit required.	309.12	Notice to other officials.
309.03	Exceptions.	309.13	Contents of permit.
309.04	Application.	309.14	Duties of permittee.
309.05	Fees.	309.15	Prohibitions.
309.06	Police protection.	309.16	Public conduct during parades or public assemblies.
309.07	Standards for issuance.	309.17	Revocation of permit.
309.08	Non-discrimination.	309.99	Penalty.
309.09	Notice of denial of application.		
309.10	Alternative permit.		

CROSS REFERENCES

Regulating parades and assemblages - see Ohio R.C. 4511.07(C)

Right of way of funeral procession - see TRAF. 331.24

Disturbing a lawful meeting - see GEN. OFF. 509.04

309.01 DEFINITIONS.

(a) "Parade" means any march, demonstration, procession or motorcade consisting of persons, animals, or vehicles or a combination thereof upon the streets, parks or other public grounds within the Municipality with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon the streets, parks or other public grounds.

(b) "Parade or public assembly permit" means the permit as required by this chapter.

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

(d) "Public assembly" means any meeting, demonstration, picket line, rally or gathering of more than twenty-five persons for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public area in a place open to the general public.

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

(f) "Street" means 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.

309.02 PERMIT REQUIRED.

No person shall engage in or conduct any parade or public assembly unless a permit is issued by the Mayor.

309.03 EXCEPTIONS.

This chapter 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;

- (c) A governmental agency acting within the scope of its functions; and
- (d) Spontaneous events occasioned by news or affairs coming into public knowledge within three days of such public assembly, provided that the organizer thereof gives written notice to the Municipality at least twenty-four hours prior to such parade or public assembly.

309.04 APPLICATION.

(a) A person seeking a parade or public assembly permit shall file an application with the Mayor on forms provided by the Mayor and the application shall be signed by the applicant under oath.

(b) For single, non-recurring parades or public assemblies, an application for a permit shall be filed with the Mayor at least ten and not more than one hundred eighty days before the parade or public assembly is proposed to commence. The Mayor may waive the minimum ten day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the parade or public assembly, the anticipated number of participants, and the municipal services required in connection with the event, the Mayor determines that the waiver will not present a hazard to public safety.

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

(d) The application for a parade or public assembly permit shall set forth the following information:

- (1) The name, address and telephone number of the person seeking to conduct such parade or public assembly;
- (2) The names, addresses and telephone numbers of the headquarters of the organization for which the parade or public assembly is to be conducted, if any, and the authorized and responsible heads of the organization;
- (3) The requested date of the parade or public assembly;
- (4) The route to be traveled, including the starting point and the termination point;
- (5) The approximate number of persons who, and animals and vehicles which will constitute such parade or public assembly and the type of animals and description of the vehicles;
- (6) The hours when such parade or public assembly will start and terminate;
- (7) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets proposed to be traversed;
- (8) The location by street of any assembly areas for such parade or public assembly;
- (9) The time at which units of the parade or public assembly will begin to assemble at any such area;
- (10) The intervals of space to be maintained between units of such parade or public assembly;
- (11) If the parade 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 Mayor authorizing the applicant to apply for the permit on his behalf;
- (12) The type of public assembly, including a description of activities planned during the event;

- (13) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly;
- (14) The approximate number of participants (spectators are by definition not participants);
- (15) The approximate number of spectators;
- (16) A designation of any public facilities or equipment to be utilized; and
- (17) Any additional information that the Mayor finds reasonably necessary to a fair determination as to whether a permit should issue.

309.05 FEES.

(a) A non-refundable fee of twenty-five dollars (\$25.00) to cover administrative costs of processing the permit shall be paid to the Municipality by the applicant when the application is filed.

(b) If the application is for the use of any municipal property or if any municipal services shall be required for the parade 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 Council.

309.06 POLICE PROTECTION.

(a) The Chief of Police shall determine whether and to what extent additional police protection is reasonably necessary for the parade or public assembly for traffic control and public safety. The Chief of Police shall base this decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. The speech content of the event shall not be a factor in determining the amount of police protection necessary. 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 public assembly is deemed necessary by the Chief of Police, he shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the Chief of Police at the sole expense of the applicant.

(b) Persons engaging in parades or public assemblies conducted for the sole purpose of public issue speech protected under the First Amendment are not required to pay for any police protection provided by the Municipality.

309.07 STANDARDS FOR ISSUANCE.

(a) The Mayor 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, the Mayor finds that:

- (1) The conduct of the parade 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 or public assembly will not require the diversion of so great a number of police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the Municipality;
- (3) The concentration of persons, animals, and vehicles at public assembly points of the parade or public assembly will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly areas;
- (4) The conduct of the parade or public assembly is not reasonably likely to cause injury to persons or property;
- (5) The parade 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 public assembly areas;
- (7) There are sufficient parking places near the site of the parade or public assembly to accommodate the number of vehicles reasonably expected;
- (8) The applicant has secured the police protection, if any, required under Section 309.06;
- (9) Such parade or public assembly is not for the primary purpose of advertising any product, goods or event that is primarily for private profit, and the parade itself is not primarily for profit. The prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the parade;
- (10) No parade or public assembly permit application for the same time and location is already granted or has been received and will be granted;
- (11) No parade or public assembly permit application for the same time but location is already granted or has been received and will be granted, and the police resources required for that prior parade or public assembly are so great that in combination with the subsequent proposed application, 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 Municipality where the police resources required for that event are so great that the deployment of police services for the proposed parade 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 street, sidewalk, or right-of-way unless advance approval for the erection or placement of the structure is obtained.

309.08 NON-DISCRIMINATION.

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

309.09 NOTICE OF DENIAL OF APPLICATION.

The Mayor shall act promptly upon a timely filed application for a parade or public assembly permit but in no event shall grant or deny a permit less than forty-eight hours prior to the event. If the Mayor disapproves the application, he shall notify the applicant either by personal delivery or certified mail at least forty-eight hours prior to the event of his action and state the reasons for denial.

309.10 ALTERNATIVE PERMIT.

(a) The Mayor, in denying an application for a parade or public assembly permit, may authorize the conduct of the parade 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 days after notice of the action of the Mayor, file a written notice of acceptance with the Mayor.

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

309.11 APPEAL PROCEDURE.

(a) Any applicant shall have the right to appeal the denial of a parade or public assembly permit to Council. The denied applicant shall make the appeal within five days after receipt of the denial

by filing a written notice with the Mayor and a copy of the notice with the Clerk of Council. Council shall act upon the appeal at the next scheduled meeting following receipt of the notice of appeal.

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

309.12 NOTICE TO OTHER OFFICIALS.

Immediately upon the issuance of a parade or public assembly permit, the Mayor shall send a copy thereof to the following:

- (a) The Police Chief;
- (b) The Law Director;
- (c) The Fire Chief; and
- (d) The Director of the Department of Public Service.

309.13 CONTENTS OF PERMIT.

Each parade 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 or public assembly;
- (f) The maximum length of the parade in miles or fractions thereof; and
- (g) Such other information as the Mayor shall find necessary to the enforcement of this chapter.

309.14 DUTIES OF PERMITTEE.

(a) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(b) The parade or public assembly chairman or other person heading such activity shall carry the parade or public assembly permit upon his person during the conduct of the parade or public assembly.

309.15 PROHIBITIONS.

The following prohibitions shall apply to all parades and public assemblies. No person shall:

- (a) Stage, present, or conduct any parade or public assembly without first having obtained a permit as herein provided;
- (b) Participate in a parade or public assembly for which the person knows a permit has not been granted;
- (c) Being in charge of, or responsible for the conduct of, a duly licensed parade or public assembly knowingly fail to comply with any condition of the permit;
- (d) Engage in any parade 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) While participating in any parade or public assembly 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 one-fourth 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-fourths inch in its thickest dimension;
- (f) Carry any sign, poster, plaque, or notice, whether or not mounted on a length of material as specified in subsection (e) of this section, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material;
- (g) While participating in a parade or public assembly utilize sound amplification equipment

- (h) at decibel levels that exceed those limits imposed by any municipal ordinance; and 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.

309.16 PUBLIC CONDUCT DURING PARADES OR PUBLIC ASSEMBLIES.

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

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

(c) The Mayor 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 or public assembly. The Chief of Police 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.

309.17 REVOCATION OF PERMIT.

The Mayor shall have the authority to revoke a parade 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 or public assembly would have an immediate and adverse effect upon the welfare and safety of persons or property.

309.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for penalties applicable to any misdemeanor classification.)

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.