

**AD HOC REPORT – PARADE ORDINANCE – MEETINGS OF
MAY 24, 2006, OCTOBER 10, 2006 AND OCTOBER 25, 2006**

The committee was called to order on May 24, 2006 at 7:30 p.m. In attendance were committee members Trombetta and Saracino. Mr. Esposito was absent. Also in attendance were assistant corporation counsel Les Pinter, Police Chief Alan Baker and Council Member McMahan, Taborsak, Perkins, Rotello, Basso, Cutsumpas, Chianese, Stanley and Teicholz, ex officio.

Mr. Trombetta said this ordinance is being considered because the city currently does not have any process to allow for organized marches or parades or a permit application process.

Discussion followed as to the parade process, payment to police officers, permits, fees, review of other municipalities, etc.

Ms. Saracino made a motion to continue the meeting and direct the Assistant Corporation Counsel to do research of other cities and towns for comparison and direct the Chief of Police to put together some figures that would give information as to the actual cost of parades and what people have paid in the past. Seconded by Mr. Trombetta. Motion carried unanimously.

The committee meeting was called to order on October 10, 2006 at 6:00 p.m. In attendance were committee members Trombetta, Saracino and Esposito. Also in attendance were Corporation Counsel Rick Gottschalk, Police Chief Alan Baker, Council Members Teicholz, Cutsumpas, Rotello, Stanley, ex-officio and members of the public.

Mr. Trombetta said this is a continuation of the May 24, 2006 meeting regarding parade permit ordinances. Attorney Pinter has supplied us with a draft documentation ordinance procedures from surrounding towns because the City currently does not have any process to allow for organized marches or parades or a permit application process.

Ms. Saracino read the minutes of the meeting of May 24, 2006.

Mr. Trombetta noted that part of Attorney Pinters' ordinance before us addresses the costs and expenses for police protection, overtime, etc.

Mr. Gottschalk stresses the constitutional ramifications that such an ordinance as this involves and the inherent danger of relying on the work product of other municipalities. He stated, it may be useful, but could be dangerous and read some language from a 1992 case in which discretion can be dangerous and giving government officials broad discretion creates the risk that the official will make decisions based on the impermissible issues, namely the content of the speech. Standards must be set up to govern the evaluation of applications received and that will guide the government official to an

analysis that is permissible and will allow him/her to grant or deny the permit based on those standards that were created before the application.

Mr. Gottschalk cautions not to rely exclusively on other town ordinances. This ordinance is a trial and error by others who specialize in municipal law, the errors being the experience of cases dealing with parades and public assemblies, some with and some without permits and brought to courts and all subject to decisions by courts up to and including the Supreme Court of the United States.

Mr. Gottschalk stated the enthusiasm experienced at sporting events does not lend itself to an ordinance like this. These ordinances all revolve around prior planning, a leader, organization. These elements are lacking in the kind of display you see in a sporting event. There already are state statutes dealing with violation of law. These events are all based on planning and the organizer is identifiable and this committee/group applies for a permit and knows in advance what day, where, how many people, where it starts and stops. This is what we are trying to regulate. This permit gives that applicant temporary, exclusive use to a particular city area.

Ms. Saracino said we have the workings of a good ordinance and moved to continue this committee. Seconded by Mr. Esposito. Motion carried unanimously. Meeting adjourned at 7:00 P.M.

The committee meeting was called to order on October 25, 2006 at 6:00 p.m. In attendance were committee members Trombetta, Saracino and Esposito. Also in attendance were Corporation Counsel Rick Gottschalk, Police Chief Alan Baker, Council Members Ben Chianese, ex officio and a member of the public.

Mrs. Saracino read the minutes of the October 10, 2006 meeting.

Attorney Gottschalk reviewed the amended language to the Ordinance, especially the language in Section 11-19(b) and offered a language alternative less susceptible to discretion. He also suggested reviewing before accepting the provisions in Section 11-21-Indemnification and 11-22-Insurance.

Mrs. Saracino was concerned with Section 11-19-Fees. She stated that the parades and marches that bring our community together and celebrate our roots and make this a great City are the ones to be charged a fee and will eventually these organizations will be priced out. Mrs. Saracino moved to amend the ordinance by adding a new section (d) to Section 11-19. Seconded by Mr. Esposito. Discussion followed pertaining to this amendment.

Mr. Trombetta stated that this committee was losing focus on the initial charge of the meeting which was having a procedure in Danbury for parades.

Mr. Gottschalk stated that if we use this amendment, it would eliminate all paying customers and put public celebrations out of business and, therefore, Section 11-19(b) and (c) would not be necessary. Discussion followed on Section 11-21-Idemnification.

Mrs. Saracino withdrew her first motion. Seconded by Mr. Esposito.

Mrs.Saracino moved to delete from the Ordinance Section 11-19(b) and (c), delete from Section 11-20(a) the last sentence, Section 11-20(b), and Section 11-21 in its entirety. Seconded by Mr. Esposito. Motion passed unanimously.

Mrs. Saracino moved to recommend this amended Ordinance to the Common Council for approval and send it to a public hearing. Seconded by Mr. Esposito.

Mrs. Saracino moved to adjourn at 6:55 p.m. Seconded by Mr. Trombetta. Motion carried unanimously.

Respectfully submitted,

Charles Trombetta, Chairman

Mary Saracino, Councilwoman

John Esposito, Councilman



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ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Chapter 11 of the Code of Ordinances of Danbury, Connecticut is hereby amended by the creation of two Articles. The first shall be designated as, "Article I. General Provisions," which shall contain existing sections 11-1 through 11-5. The second shall be designated as "Article II. Parades and Public Assemblies," which shall contain sections 11-15 through 11-35.

ARTICLE II. PARADES AND PUBLIC ASSEMBLIES

Sec. 11-15. 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 City with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon said streets, parks or other public grounds.
- (b) *Parade or public assembly permit* means a permit as required by this Article.
- (c) *Person* means any individual, 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 (25) 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* is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.
- (f) *Spontaneous parade or public assembly* is an unplanned or unannounced coming together of persons, animals or vehicles consisting of a parade or public assembly, which may be occasioned by news or affairs coming into public knowledge that allows no opportunity for application to Chief of Police.
- (g) *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.

Sec. 11-16. Permit required.

No parade or public assembly shall be permitted unless a permit allowing such activity has been obtained from the Chief of Police in accordance with the provisions of this Article.

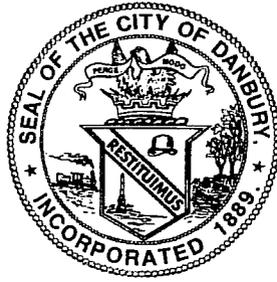
Sec. 11-17. Exceptions.

This Article shall not apply to the following:

- (a) Funeral, religious or wedding 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.

Sec. 11-18. Application.

- (a) A person seeking a parade or public assembly permit shall file an application with the Chief of Police on forms provided by such officer 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 Chief of Police at least ten (10) and not more than one hundred eighty (180) days before the parade or public assembly is proposed to commence. The Chief of Police may waive the minimum ten (10) 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 City services required in connection with the event, the Chief of Police determines that the waiver will not present a hazard to public safety.



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(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 public assemblies during that calendar year may be filed with the Chief of Police at least sixty (60) and not more than one hundred eighty (180) days before the date and time at which the first such parade or public assembly is proposed to commence. The Chief of Police may waive the minimum sixty (60) day period after due consideration of the factors specified in subsection (b) above.

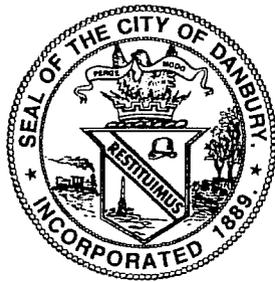
(d) The application for a parade or public assembly permit shall set forth the following information:

- (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 Chief of Police authorizing the applicant to apply for the permit on his behalf;
- (12) The type of parade or 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 shall not be considered to be 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 Chief of Police finds reasonably necessary to a fair determination as to whether a permit should issue.

(e) Upon the occurrence of conditions leading to a spontaneous parade or public assembly, the Chief of Police may immediately grant a permit for the event under the same standards but under such alternative procedures as shall be appropriate given the immediacy of the spontaneous parade or public assembly. In the event of a spontaneous parade or public assembly, in order to maintain safe and passable traffic conditions in the city, such parades and public assemblies shall be held on those public streets or parts thereof where the chance of unsafe or impassable traffic would be minimized.

Sec. 11-19. Fees.

A non-refundable fee of \$100 to cover administrative costs of processing the permit shall be paid to the City by the applicant when the application is filed.



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Sec. 11-20. Police Protection.

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 parade or public assembly is deemed necessary by the Chief of Police, he shall so inform the applicant for the permit.

Sec. 11-21. Liability insurance.

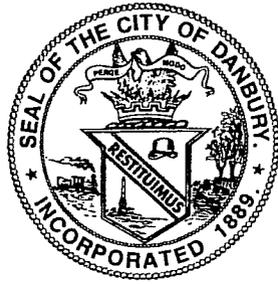
(a) As a condition precedent to the issuance of a permit authorizing a parade or public assembly, the permittee shall obtain public liability insurance from an insurance company licensed to do business in the State of Connecticut and having a financial rating in Best's Insurance Guide of at least "B". Such insurance shall provide "occurrence" coverage against liabilities for death, personal injury or property damage arising out of or in any way connected with such parade or public assembly. Such insurance shall be in the amount of at least \$2,000,000, combined single limit, and shall name the city and the city's officers, employees and agents as additional insureds under the coverage afforded. In addition, such insurance shall be primary and noncontributing with respect to any other insurance available to the City and shall include a severability of interest (cross liability) clause. Proof of such insurance, in a form approved by the city's risk manager, shall be filed with the Chief of Police prior to the issuance of the permit and such insurance shall be maintained in full force and effect throughout the course of the parade or public assembly authorized by such permit.

(b) Persons engaging in parades or public assemblies conducted for the sole purpose of public issue speech protected under the First Amendment shall not be required to comply with the provisions of this section.

Sec. 11-22. Standards for issuance.

(a) The Chief of Police 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 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 City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the City;
- (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 11-20;



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(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 or public assembly 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 or public assembly;

(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 City 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 City street, sidewalk, or right-of-way unless advance approval for the erection or placement of the structure is obtained from the Common Council.

Sec. 11-23. Non-discrimination.

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

Sec. 11-24. Notice of denial of application.

The Chief of Police 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 (48) hours prior to the event. If the Chief of Police disapproves the application, he shall notify the applicant either by personal delivery or certified mail at least forty-eight (48) hours prior to the event of his action and state the reasons for denial.

Sec. 11-25. Alternative permit.

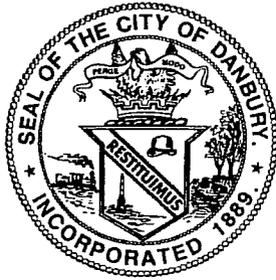
(a) The Chief of Police, in denying an application for a parade or public assembly permit, may authorize the conduct of the parade or public assembly at a date, time, location, or route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five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

(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 Article.

Sec. 11-26. Appeal procedure.

(a) Any applicant shall have the right to appeal the denial of a parade or public assembly permit to the Common Council. 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 and a copy of the notice with the City Clerk. The Common Council shall act upon the appeal at the next scheduled meeting following receipt of the notice of appeal.

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



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ORDINANCE

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Sec. 11-27. Notice to other city officials.

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

- (a) The Mayor;
- (b) The Corporation Counsel;
- (c) The Fire Chief;
- (d) The Director of the Department of Public Works;
- (e) The Director of the Housatonic Area Regional Transit System, whenever the

regular routes of its vehicles will be affected by the route of the proposed parade or public assembly.

Sec. 11-28. Contents of permit.

Each parade or public assembly permit shall, to the extent applicable, 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 Chief of Police shall find necessary to the enforcement of this Article.

Sec. 11-29. 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.

Sec. 11-30. Prohibitions.

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

(a) It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted;

(b) It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly licensed parade or public assembly to knowingly fail to comply with any condition of the permit;

(c) It shall be unlawful for any person to 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;

(d) It shall be unlawful for any person participating in any parade 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 one-fourth inch (1/4") or less in thickness and two inches (2") or less in width, or if not generally rectangular in shape, such object shall not exceed three-fourths inch (3/4") in its thickest dimension;

(e) It shall be unlawful for any person to carry any sign, poster, plaque, or notice, whether or not mounted on a length of material as specified in subsection (d) of this Section, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material;



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(f) It shall be unlawful for any person participating in a parade or public assembly to utilize sound amplification equipment at decibel levels that exceed those limits imposed by section 12-14 of this Code of Ordinances; 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.

Sec. 11-31. 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 Chief of Police 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 in violation of this Section, unless such signs have been so posted.

Sec. 11-32. Revocation of permit.

The Chief of Police 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 Article 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.

Sec. 11-33. Penalties.

Any person violating the provisions of any section of this Article shall be subject to a fine not to exceed \$100.

Sec. 11-34. Severability.

If any section, subsection, sentence, clause or phrase of this Article 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 Article.