

To: Mayor Mark D. Boughton and Members of the Common Council

Re: Minutes of the Common Council Committee Meeting held on April 23, 2007.

The meeting was called to order upon the close of the Public Hearings. The members were recorded as:

**Present-** McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Perkins, Visconti, Esposito, Chianese, Saadi, Cavo, Basso, Rotello, Diggs, Riley, Saracino, Seabury, Stanley and Taborsak

**Absent:** Teicholz (Undergoing medical treatment).

**19 PRESENT - 1 ABSENT – 1 VACANT SEAT**

**Parade and Public Assemblies – Section 11-15 to 11-34**

Attorney Gottschalk said the concept for this arose because of public concern about outbursts of enthusiasms after sporting events. He said they started with a model ordinance from the International Municipal Lawyers Association, but what they are looking at here doesn't go to the heart of the motivation. People will always publicly express their emotion and joy, which will be a violation of law because we have laws against disrupting the peace. This will create a system so that when one group of people wants to express themselves to the exclusion of others, they will be able to do it in an organized fashion. It will regulate what previously was not regulated by requiring promoters or sponsors of public assemblies or parades to get a permit from the Chief of Police. It sets standards to evaluate the activity as well as an applicable fee and penalties for violations.

Mr. Cavo asked about the funding for Police duty. Attorney Gottschalk said in certain circumstances, the sponsor would have to pay for Police protection, adding that when issue is free speech, things can get out of hand.

Mrs. Saracino said there is funding in current budget which should cover parades for the coming year. She said it is good that the application has both a starting and ending time for the activity. She asked if the fine goes to organizer or participants. Attorney Gottschalk said there is case law that prohibits a blanket penalty.

Mr. Trombetta thanked Attorneys Gottschalk and Pinter for their expertise, adding that not one portion of this ordinance was taken lightly.

Mr. Calandrino asked if hundred dollar fee is norm for this type of permit. Attorney Gottschalk said a higher permit fee would create a greater risk of a successful challenge. The test is if the fee relates to cost of processing an application and Chief Baker agreed to this amount.

Mr. Chianese said this changed 360 degrees during the crafting of it. The cost of Police protection is what drove the cost of the fee. He said taxpayer dollars are being used for a parade that the public may not want so he will be voting against this. He added that the Chief of Police said that he needed at least five days notice to make sure there is adequate staff, but this only gives three days. As written, this will put a burden on the Police Dept. and the penalty will encourage violation of the payment of fees. He reiterated that he will vote against sending this to Council.

Mrs. Saracino reminded Mr. Chianese that he should recall the discussion of fees and the Attorney Gottschalk had advised them that charging people who are expressing free speech and first amendment rights could put them on slippery slope. The fees were removed because they couldn't decide who should be exempt. The committee felt that five days was burdensome to those who wanted to express themselves. She said the changes he contradicted were the ones that addressed free speech.

Mr. Seabury asked if no permit is taken, are all participants subject to the penalty fine. Attorney Gottschalk said that all parties knowingly violating the provision would be subject to the fine.

Mr. Saadi asked Attorney Gottschalk where the first amendment protections are in this. Attorney Gottschalk said parades are inherently expressive and implicate first amendment freedom of speech issues. He said they did provide exemptions from certain provisions provided that the motivation involves free speech issues. Mr. Saadi said there are protections for those applying but this doesn't address the issue that brought this before them and that is spontaneous events. Also, there was an allegation that the charge for Police protection was discrimination against certain groups. He said he will vote against this because there are significant problems with it and he does not see it doing what they intended it to do.

Mr. Calandrino asked Deputy Chief Shanahan how many parades do we have in a year that are planned. Deputy Chief Shanahan said there are about 15-20 planned not counting the World Cup. He added that this includes things like fund raising walks and road races. Mr. Calandrino asked how this that affects Police manpower. Deputy Chief Shanahan said they have a special events coordinator who helps plan the route. Mr. Calandrino asked how many unplanned events there are. Deputy Chief Shanahan said most of the unplanned events have to do with World events, etc. and are usually spontaneous. Mr. Calandrino asked if these unplanned events generate arrests. Deputy Chief Shanahan said some, but not many.

Mr. Trombetta said the charge of this as written is a definition of parade. This is an important distinction as they wanted a process for parades not to question the spontaneity of public events.

Mr. Rotello read a definition of public assembly and said much of this relates to a meeting and gathering ordinance. He said the language of this ordinance is clear because it includes any public property; adding that the minute they approve this, they will be in violation of it. And if the City tries to enforce this ordinance, the public will claim that it is never enforced. He said for all of these reasons, he cannot vote for this.

Mr. Riley asked Deputy Chief Shanahan if there are laws to control or solve spontaneous reactions without putting an ordinance like this in place. Deputy Chief Shanahan said there are. Mr. Riley asked if this ordinance would enhance their ability to address these situations. Deputy Chief Shanahan said that Chief Baker supports this ordinance although he was hoping for more than three days notification. This will give them authority to regulate parades on the street. Mr. Riley then said he feels they are opening up can of worms and suggested they deal with the groups that are the problems. He added that this is ridiculous and he is going to vote against it.

Mr. Cavo asked Deputy Chief Shanahan if this ordinance will help the Dept. in providing public assistance to the residents of Danbury. Deputy Chief Shanahan said yes, it would.

Mr. Visconti said he takes offense to Mr. Cavo asking the Deputy Chief a question like that.

Mr. Rotello said his objections are not excessive. His examples have and do happen all the time. The permits are too expensive coupled with insurance fees, so this is not the way to go. He added that it will not be enforced against the good people, so how will we enforce it against the bad people. He suggested we fix it first, before we send it to Council.

Mrs. Stanley commended Attorney Gottschalk on all of his work. She then said unfortunately she believes this will only affect the law abiding citizens; it will not affect those who were the inspiration for it to be written.

Mrs. Saracino made a motion to recommend this be voted on at the next regular meeting of the Council. Mrs. McMahon seconded the motion.

Mr. Cavo then called the vote on the motion and it was passed with eleven AYES (McMahon, Nagarsheth, Johnson, Trombetta, Calandrino, Esposito, Cavo, Basso, Diggs, Saracino & Seabury) and eight NAYS (Perkins, Visconti, Chianese, Saadi, Rotello, Riley, Stanley & Taborsak).

Respectfully submitted,



JoAnne V. Read  
Secretary



# 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 11-34.

#### ARTICLE II. PARADES AND PUBLIC ASSEMBLIES

##### Sec. 11-15. Definitions.

(a) *Parade* means any march, demonstration, procession or motorcade, which the parade permit applicant believes will consist of more than twenty-five (25) persons, animals, or vehicles or a combination thereof upon the streets, sidewalks, parks or other public property owned by or under the control of the City of Danbury, for a common purpose as a result of prior planning that interferes with the normal flow of pedestrian or vehicular traffic upon said streets, sidewalks, parks or other public property.

(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, which the parade permit applicant believes will consist of more than twenty-five (25) persons, held on the streets, sidewalks, parks or other public property owned by or under the control of the City of Danbury, for a common purpose as a result of prior planning that interferes with the normal flow of pedestrian or vehicular traffic upon said streets, sidewalks, parks or other public property.

(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) *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 allowed unless a permit authorizing such activity has been obtained from the Chief of Police in accordance with the provisions of this Article.

##### Sec. 11-17. Special Events.

All special events, including but not limited to pedestrian, bicycle or vehicular races, that require participants to pay an entry fee and which the applicant believes will consist of more than twenty-five (25) persons, that interferes with the normal flow of pedestrian or vehicular traffic upon the streets, sidewalks, parks or other public property owned by or under the control of the City of Danbury shall comply with the provisions of this article. In addition, The Chief of Police shall determine whether and to what extent additional police protection is reasonably necessary 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, parks or other public property owned by or under the control of the City of Danbury. 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. 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.

##### 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 three (3) and not more than one hundred eighty (180) days before the parade or public assembly is proposed to commence. The Chief of Police shall waive the minimum three (3) 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.

(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 thirty (30) 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 shall waive the minimum thirty (30) 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 or dates 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 that 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, sidewalks, parks or other public properties proposed to be traversed;
- (8) The location 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 if known;
- (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.
- (18) For parades or public assemblies to be held within the right-of-way of or on a sidewalk adjacent to a state highway or on other land owned by the State of Connecticut, the applicant shall present evidence that it has obtained the approval of the State of Connecticut for said parade or public assembly. The Danbury Police Department shall maintain a list of highways and lands with respect to which prior state approval is required.

**Sec. 11-19. Fees.**

(a) A non-refundable fee of one hundred dollars (\$100.00) to cover administrative costs of processing the permit shall be paid to the City by the applicant when the application is filed.

(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. 11-20. 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, sidewalks, parks or other public properties. Except as otherwise provided in Sec. 11-17, all costs of police protection shall be borne by the City of Danbury.

**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) No parade or public assembly permit application for the same time and location has already been granted or has been received and will be granted;

(9) No parade or public assembly permit application for the same time but a different location has already been 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

(10) 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) A permit shall not be required for a parade or public assembly on streets, sidewalks, parks or other public property unless the applicant believes that the parade or public assembly may necessitate the exclusive use or temporary closure of one or more streets, sidewalks, parks or other public properties, in which case a permit shall be required. All persons wishing to conduct a parade that is not expected to necessitate the exclusive use or temporary closure of one or more streets, sidewalks, parks or other public properties shall file a notice of such parade or public assembly with the Chief of Police. If the Chief of Police believes that exclusive use or temporary closure of streets, sidewalks, parks or other public properties is reasonably probable, he may require that a permit application be filed. If a parade or public assembly attracts an unexpected number of participants such that the parade or public assembly actually results in the exclusive use of one or more streets, sidewalks, parks or other public properties by the parade or public assembly participants, the Danbury Police Department shall accommodate the parade or public assembly by closing a portion of the affected streets, sidewalks, parks or other public properties, where so doing will not compromise public safety or unreasonably interfere with the normal flow of traffic upon said streets, sidewalks, parks or other public properties.

**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. In the event that an application for a parade or public assembly is filed after the deadline established in Subsection 11-18(b) of this Article, the forty-eight (48) hour deadlines established in this section 11-24 shall not apply, however the Chief of Police shall act on said application as promptly as possible.

**Sec. 11-25. Alternative permit.**

(a) The Chief of Police, in denying an application for a parade or public assembly permit, shall authorize the conduct of the parade or public assembly at a date, time, location, or route different from that named by the applicant. Any alternative specified by the Chief of Police shall match the originally requested date, time, location and route as closely as possible. 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.

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(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 either the Common Council or the Mayor. The choice of forum shall be at the option of the applicant. 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 either with the City Clerk, with respect to appeals to the Common Council, or with the Mayor. The Common Council or the Mayor shall act upon the appeal within forty-eight hours following receipt of the notice of appeal.

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

**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, sidewalk, parks or other public property 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;

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(c) It shall be unlawful for any person to carry any sign, poster, plaque, or notice, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, or cardboard material;

(d) 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

(e) 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 can be readily identified as participating in 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 one hundred dollars (\$100.00).

**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.