

**CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 23-0227-01**

**ORDINANCE TO AMEND CHAPTER 5 OF THE CITY OF
DELAWARE CITY CODE REGARDING PUBLIC PLACES, PARKS AND
RECREATION BY ADDING ARTICLE IV TO CREATE EVENT PERMITS
AND AMENDING ARTICLE I FOR CONSISTENCY**

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter (“Charter”), and pursuant to the “Powers of the City,” outlined in Article II, § 2-01 of the Charter, the Mayor and the Council of The City of Delaware City (“City Council”) possesses the authority to adopt, amend, modify, or repeal The City of Delaware City Code (“Code”); and

WHEREAS, the Mayor and the City Council of Delaware City desire to create provisions in the Code to address public events held within the City, with reasonable consideration, among other things, as to the cultural, social, economic and practical impacts within the City; and

WHEREAS, the Mayor and the City Council desire to amend Chapter 5 (Public Places, Parks and Recreation) of the City Code by adding Article IV creating Event Permits, and revising various sections of Article I to ensure consistency therewith and with the remainder of the Code; and

NOW THEREFORE, making the express finding that the below changes enhance and perpetuate Delaware City’s cultural, social, economic, religious, political or architectural history, the Mayor and Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Chapter 5 of the Code regarding Public Places, Parks and Recreation is hereby amended by deleting the strikethrough language, and by adding the underlined language below, as follows:

ARTICLE I. CITY PARKS, PLAYGROUNDS AND BALLFIELDS

Sec. 5-1. Hours closed.

City of Delaware City parks, playgrounds and ballfields (hereinafter referred to as "city recreation recreational lands") will be closed ~~from 10:00 p.m. until 7:00 a.m. daily~~ overnight between one hour past dusk and one hour before dawn.

Sec. 5-2. Temporary closing.

Any city recreational lands maybe temporarily closed by the mayor and council or city manager when it is deemed necessary to be in the best interests of public safety.

Sec. 5-3. Motor vehicles on recreation lands.

No person shall ride or drive or operate any motorized vehicle upon any of the city recreational lands, except where designated.

Sec. 5-4. Alcoholic beverages and drugs prohibited.

Alcoholic liquors, beverages and any kind of narcotic drugs are prohibited on any city recreational lands, except as permitted by chapter 25 of the City of Delaware City Code.

Sec. 5-5. Destruction of or dumping on recreational lands prohibited.

No person shall cut, break, move, take or otherwise injure, destroy or deface any trees, shrubs, plants, turf or any building, fence, bridge, sign, playground equipment or other structure; nor dump rubbish or other material on any city recreational lands.

Sec. 5-6. ~~Written permission.~~ Event permit required for ~~entertainment, demonstration public assembly or exhibit~~ parade in public places, parks or on recreational lands.

No ~~entertainment, demonstrations public assembly or exhibition-parade,~~ as defined in Article IV, shall be given or occur in any city public place, park or recreational lands except by written permission and without the prior issuance of the mayor and council or the city manager an Event Permit pursuant to Article IV herein.

Sec. 5-7. Fine for violation.

Any person or persons found in violation of this article shall be subject to a fine of not less than \$25.00 nor more than \$50.00 for each offense. Each violation shall be a separate offense.

ARTICLE IV – EVENT PERMIT

Sec. 5-41. Definitions.

As used in this chapter, the following terms shall have the meanings indicated: CHIEF OF POLICE — The Chief of Police of the City of Delaware City.

CITY — The Mayor and Council of Delaware City also known as the City of Delaware City.

CITY MANAGER — Individual appointed by the Mayor and Council to manage the day-to-day operations of the City. See Art. IX of the City Charter.

CITY COUNCIL — A five-member board elected at large to establish policies and procedures to provide for the well-being of the residents and businesses of Delaware City. See Art. III of the City Charter.

PARADE — 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 to attract public attention that interferes with or has a tendency to interfere with the normal flow or regulation of traffic upon the streets, parks or other public grounds.

EVENT PERMIT — A permit as required by this chapter.

PERSON — Any individual, firm, corporation, entity, company, partnership, joint venture or organization of any kind.

PUBLIC ASSEMBLY — Any meeting, demonstration, picket line, rally, entertainment, exhibition or gathering of more than 20 persons for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any area in a place open to the general public.

SIDEWALK — Any area or way set aside or open to the general public for

purposes of pedestrian traffic, whether or not it is paved, as defined in Section 27-2 of the City Code.

STREET — 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. 5-42. Permit required.

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

Sec. 5-43. 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 and the City has been notified of the activity at least 72 hours in advance.
- C. A governmental agency acting within the scope of its functions.
- D. An event sponsored by and/or coordinated by the City.
- E. 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 City at least 24 hours prior to such parade or public assembly.

Sec. 5-44. Application.

- A. A person seeking a parade, public assembly or private social gathering (unless exempted as permitted) shall file an application with the City Manager on forms provided by such office, and the application shall be signed by the applicant.
- B. For single, nonrecurring parades or public assemblies, an

application for a permit shall be filed with the City Manager at least 30 and not more than 180 days before the parade or public assembly is proposed to commence. The City Manager may waive the minimum thirty-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 City Manager determines that the waiver will not present a hazard to public safety. For parades or public assemblies held on a regular or recurring basis at the same location, an application for a permit covering of such parades or assemblies during that calendar year may be filed with the City Manager at least 60 days before the date and time at which the first such parade or public assembly is proposed to commence. The City Manager may waive the minimum sixty-day period after due consideration of the factors specified above.

- C. 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, together with any proposed rain date for such 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, together with applicant's assurance that it will clean up after any animals, especially horses, used in any parade.
 - (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 City Manager 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 another attention-getting devices to be used in connection with the parade or public assembly.
- (14) The approximate number of spectators.
- (15) A designation of any public facilities or equipment to be utilized.
- (16) Certification that the applicant has read and understands Chapter 25 of the City Code which regulates consumption of alcoholic beverages.
- (17) Any additional information that the City Manager finds reasonably necessary to a fair determination as to whether a permit should issue.

Sec. 5-45. Fees.

- A. A nonrefundable fee to cover administrative costs of processing the permit shall be paid to the City by the applicant when the application is

filed. Such administrative fee shall be set from time to time by resolution of the City Council.

- B. If the application is for the use of any City property or if any City 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 provided by the City Finance Manager.

Sec. 5-46. 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 public assembly is deemed necessary by the Chief of Police, he/she 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.

Sec. 5-47. Standards for issuance.

- A. The City Manager shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, the City Manager, in consultation with the Chief of Police 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 § 51-16;
- (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 a different 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 employment 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 City Council.

Sec. 5-48. Nondiscrimination.

The City Manager 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.

Sec. 5-49. Denial of application.

Following the City Manager's denial of any application for a permit within this Article, at the next Mayor & Council meeting, the City Manager shall present to Council the denied application for a parade or public assembly permit and City Manager's reason for denial. With good cause, City Council may overrule City Manager's denial, and issue a permit under this chapter. If the City Council supports the City Manager's decision to deny the application, the City Manager shall notify the applicant of the denial either by personal delivery or certified mail within 48 hours of the City Council's decision. Any denial of a parade or public assembly permit shall state the reason(s) for denial.

Sec. 5-50. Alternative permit.

- A. The City Manager or City Council, 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 City Manager, file a written notice of acceptance with the City Manager.
- 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.

Sec. 5-51. Appeal procedure.

In the event that the City Council rejects an applicant's application, the applicant may file a request for review with a court of competent jurisdiction within 14 days of written decision.

Sec. 5-52. Notice to city and other officials.

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

- A. The Chief of Police.
- B. The City Solicitor.
- C. The Fire Chief.

Sec. 5-53. Contents of permit.

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

- A. Name and contact information of the applicant.
- B. Applicable date(s).

- C. Starting and approximate ending time.
- D. Minimum speed of parade units.
- E. Maximum speed of parade units.
- F. Maximum interval of space to be maintained between parade units.
- G. The portions of the streets that may be occupied by the parade or public assembly.
- H. The maximum length of the parade in miles or fractions thereof.
- I. Such other information as the Chief of Police or City Manager shall find necessary to the enforcement of this chapter.

Sec. 5-54. Duties of permittee.

- A. A permittee hereunder shall comply with all permit directions and conditions and with all applicable Federal, State and Local 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/her person during the conduct of the parade or public assembly.

Sec. 5-55. Prohibitions.

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

- A. It shall be unlawful for any person to stage, present or conduct any parade or public assembly without first having obtained a permit as herein provided.
- B. It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted.
- C. 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.

- D. 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.
- E. 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 1/4 inch or less in thickness and two inches or less in width, or if not generally rectangular in shape, such object shall not exceed 3/4 inch in its thickest dimension.
- F. 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 E of this section, unless such sign, poster, plaque or notice is constructed or made of a cloth, paper, or cardboard material.
- 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. 5-56. 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 person shall operate any motor vehicle in any parade or in connection with any public assembly unless such person is a licensed driver.
- C. 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.

- D. 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.

Sec. 5-57. Revocation of permit.

The Chief of Police/designee 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.

Sec. 5-58. Violations and penalties.

Any person violating the provisions of any section of this chapter shall, upon conviction, be punished by fine not to exceed \$500 or imprisonment of not more than 30 days, or both.

Sec. 5-59 to Sec. 5-60 Reserved.

Section 2. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in

accordance with the City Council's intent.

Section 3. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this ____ day of _____, 2023.

ATTEST:

City Secretary

Mayor

APPROVED AS TO FORM:

Council Member

City Solicitor

Council Member

Council Member

Council Member

Council Member

First Reading on _____.

Second Reading, Public Hearing, and Final Passage on: _____.