

Chapter 101A. Parades and Picketing

Section

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§101.01 DEFINITIONS

For the purpose of this section, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

- (A) Chief of Police means the police chief of the Town of Matthews or his/her designee.
- (B) Town means the Town of Matthews, North Carolina. Town Manager means the Town Manager of the Town of Matthews or his/her designee.
- (C) Public assembly or parade means any march, demonstration, ceremony or procession of any kind which moves from place to place completely or partially in or partially along a specified route, in or upon any street, sidewalk or other public grounds, or forms in a single or multiple places owned or under the control of the Town.
- (D) Public assembly or parade permit means prior written authorization to utilize the street, sidewalk or other Town-owned areas for an event.
- (E) Picket or picketing means to make a public display or demonstration of sentiment for or against a person or cause, including protesting, which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive.

§101.02 PROHIBITIONS

- (A) It shall be unlawful for any person to conduct or otherwise participate in a parade unless a permit has been obtained from the Chief of Police.
- (B) It shall be unlawful for any person to conduct or otherwise participate in any parade that convenes before sunrise or terminates after sunset.
- (C) It shall be unlawful for any person to engage in picketing focused on and taking place in front of a particular residence.

- (D) It shall be unlawful for any person to unreasonably obstruct, impede or interfere with any parade or with any person, vehicle, or animal participating or used in a parade.

§101.03 PUBLIC ASSEMBLY AND PARADES

- (A) *General responsibility of participants and persons in charge.*
 - (1) Participants in a public assembly or parade are required to abide by this division, and the terms of the public assembly or parade permit. Willful violation thereof is unlawful.
 - (2) The person designated in the application as responsible for the conduct of the event shall be responsible for monitoring the conduct of the participants in the event. Upon actual notice of any violation given to the responsible person by a law enforcement officer on the scene of said event, such responsible person shall make immediate attempts to correct the violation. It shall be unlawful for such responsible person to refuse to make attempts to correct the violation.
 - (3) The person(s) designated in the application as the person(s) responsible for the conduct of the event shall be physically present, and accept responsibility for compliance with any and all terms of the public assembly or parade permit as set forth in this division.
- (B) *Permit.* No person shall engage in, participate in, aid, form or start any public assembly or parade unless a permit has been obtained from the Chief of Police.
- (C) *Exception to permit requirement.* This article shall not apply to the following:
 - (1) Funeral processions;
 - (2) 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;
 - (3) A governmental agency acting within the scope of its functions;
 - (4) A public demonstration in a traditional public forum; and
 - (5) Permits are not required for assemblies on public property including but not limited to parks or sidewalks, subject to compliance with applicable Town ordinances concerning public sidewalks, unless it is known or reasonably probable that the assembly may necessitate the use or temporary closure of the streets, in which case a permit is required. If an assembly begins off the street but attracts an unexpected number of participants such that the assembly begins to occupy a portion of the street, the Matthews Police Department shall accommodate the assembly by closing a segment, lane, or portion of the street where so doing will not jeopardize the participants or unreasonably inhibit the flow of traffic on a major traffic route; however, the Matthews Police Department is authorized to limit the available portion of the street, where a segment, lane or portion of the street is capable of

accommodating the assembly.

(D) *Permit and escort fees.*

- (1) The Town shall charge an administrative fee of \$100.00 to cover expenses incidental to processing the application.
- (2) The applicant shall be responsible for hiring and paying off-duty law enforcement officers or reimbursing the Town for the cost of providing off-duty law enforcement officers and fire personal, to provide internal festival safety and security.
- (3) The applicant is responsible for reimbursing the Town to cover expenses for logistical support, including barricades and parking restrictions, when said support is requested, or in the judgment of the Town, needed for the safety of the event, whether or not such request or determination is made in advance of the event. The fees shall be waived in whole or in part as necessary to ensure that constitutional rights of the applicants are not infringed, as follows:
 - a. The Town shall waive a permit fee, in whole or in part, for indigent individuals or groups as necessary to ensure that the constitutional rights of indigent applicants are not infringed. In cases where an indigency waiver is requested, the Police Chief shall consider, but not be limited to, the following: whether the applicant is employed; the financial resources available to the applicant; whether the applicant receives federal, state, or local financial assistance; whether the applicant owns real property, and whether alternative arrangements are available. The Police Chief may base his determination of indigency on the identity of the real party in interest.
 - b. Even if the applicant is not determined to be indigent, the Town shall waive a permit fee, in whole or in part, if the applicant demonstrates that a waiver of fees is necessary, to avoid an infringement of constitutional rights. The applicant shall provide a statement supporting this assertion and shall identify the issue for which the parade is being organized.
 - c. Furthermore, if it is later determined that there has been an intentional, material misrepresentation of the applicant's financial status or other information provided on the application, the Town reserves the right to charge the organizers an appropriate fee based on actual events.

(E) *Application*

- (1) A person seeking issuance of a public assembly or parade permit shall file a completed application with the Chief of Police at least 30 days before the commencement of the event, on a form provided by the Chief of Police. The form shall include a place for the applicant to indicate if the applicant is indigent and desires a waiver of permit fees. A copy of the Town's schedule of fees from its fees and charges manual shall be furnished to the applicant.
- (2) An application for a public assembly or parade permit shall be filed with the Chief

of Police not less than thirty days before the time when it is proposed to conduct the parade, unless the applicant can show that the parade pertains to a current or emergent public issue. If the applicant makes this assertion in the application, the Chief of Police shall permit such an application to be filed within fifteen days of the event. Additionally, a permit may be issued if filed less than ten days before the time for commencement of the parade when the Chief of Police finds that:

- a. There is no conflict in schedule with some other previously schedule events; and
- b. That the time for filing is sufficient to prepare for the parade pursuant to the standards set forth in this subsection.

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

- (1) The name, address and telephone number of the person seeking to conduct such public assembly or parade.
- (2) If the public assembly or parade is proposed to be conducted for, or on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the person who will be responsible for the conduct of the parade.
- (3) The date when the event is to be conducted and the hours when such event will start and terminate.
- (4) The proposed route to be traveled, the starting point and the termination point.
- (5) The approximate number of persons who, and animals and vehicles which, will constitute such event; the type of animals and description of the vehicles.
- (6) The location by streets and designation by time of an assembly area of such parade.
- (7) If the public assembly or parade is designed to be held by, and on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the event, authorizing the applicant to apply for the permit in his/her behalf.
- (8) The person or person to be in charge of the event for all purposes and who will accompany it and carry the permit at all times.
- (9) The maximum lengths of the parade in miles or fractions thereof.
- (10) Any additional information which the Chief of Police may need to clarify any of the specific information set forth above.

(G) *Issuance standards.* The Chief of Police shall issue a public assembly or parade permit upon submission of the completed application, unless he finds one or more of the following conditions present:

- (1) The application is not fully completed and executed;
- (2) The applicant has not tendered the required application fee or has not tendered other required user fees or costs necessary for the event to be conducted;
- (3) The application contains a material falsehood or misrepresentation;
- (4) The applicant has on prior occasions made material misrepresentations regarding the nature or scope of the event;
- (5) The applicant has previously permitted a violation or has violated the terms of the parade permit issued to or on behalf of the applicant;
- (6) A fully executed prior application or board action for the same time and place has been received and a permit or board approved action has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;
- (7) The proposed event would conflict with previously planned programs organized, conducted or sponsored by the Town and previously scheduled at or near the same time and place;
- (8) The proposed event would present an unreasonable danger to the public health or safety;
- (9) The proposed event would substantially or unnecessarily interfere with traffic; the event would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the event;
- (10) There would not, at the time of the event, be sufficient law enforcement officers to adequately protect participants and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed event;
- (11) The use or activity intended by the applicant is prohibited by law;
- (12) Adequate provisions cannot be made for the safe and orderly movement of the parade and of other traffic, pedestrian and vehicular, contiguous to its route;
- (13) Adequate provisions cannot be made for police protection without requiring the diversion of so great a number of police officers of the Town to police properly the lines of movement and the areas contiguous thereto, thereby preventing normal police protection to the Town;
- (14) The applicant for the parade permit has not agreed to abide by the standards set forth in this division which are necessary measures to promote the safety and welfare of the community; and
- (15) For non-First Amendment protected events, the following criteria shall also apply:
 - a. The cultural and/or educational significance of the event;

- b. The extent to which the event contributes to the economic revitalization and business development of the Town;
- c. The impact and/or cost of the event to the Town support staff;
- d. The impact of the event to the public health, safety and welfare;
- e. The impact of the event on business and residential populations within or adjacent to the proposed site;
- f. The evaluation of any previous event produced by the event organizer with regard to planning, quality, public safety and payment of invoices; and
- g. The frequency and timing of the event or similar events.

All costs for staging the parade, including fees and charges assessed by the Town, shall be itemized and provided to the applicant with the permit.

Such determinations may not be based on the estimated number of non-participant observers.

Such determinations may not be based on the content of speech expected to be expressed during the parade.

Each applicant shall be considered upon its own merits and shall not be granted or denied based on political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

- (H) *Notice of rejection.* The Chief of Police shall act upon the application for a public assembly or parade permit within 20 days after the filing thereof. If the applicant has filed an application for a parade permit under the “current or emergent public issue exception” set forth in subsection (E)(2), the Chief of Police shall make every effort to act on the application within 72 hours and in any event not later than 24 hours before the event. If the Chief of Police disapproves the application, he shall notify the applicant, stating the reasons for his denial of the permit.
- (I) *Alternative permit.* The Chief of Police, in denying an application for a public assembly or parade permit, shall be empowered to authorize the event on a date, at a time, or over a route different from that named by the applicant. An applicant, desiring to accept an alternative permit shall, within one day after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police. An alternate public assembly or parade permit shall conform to the requirements of, and shall have the effect of, a public assembly or parade permit under this division.
- (J) *Right to appeal.* Any person denied a public assembly or parade permit or who rejects an alternative permit, or who objects to any of the costs to be assessed by the Town, shall have the right to an immediate appeal to the Town Manager. The hearing of a public assembly or parade permit appeal shall be prioritized so as to allow the Town Manager the opportunity to review the appeal and render a decision prior to the requested date and time of the public assembly or parade. Any applicant desiring to file an appeal shall, within 24 hours, excluding weekends and holidays, after notice of the action of the Chief of Police,

enter either a written or oral notice of appeal with the Chief of Police. The Chief of Police shall be responsible for forwarding the notice of appeal, along with all documents related to the appeal, to the Town Manager and arranging for the appeal hearing to take place within a reasonable period of time prior to the date of the proposed event.

- (K) *Post event appeal.* In the event an appeal based on costs cannot be resolved prior to the event, or if the applicant believes that the logistical support deployed for the event is not justified based on actual experience, or that a request for a fee waiver was wrongfully denied, that appeal may be made to the Town Manager within 48 hours after the event has occurred, and the Town Manager shall determine said appeal within the times prescribed above.
- (L) *Parking on parade route.* The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway of vehicles along a street or highway or part thereof, constituting a part of the route or location of the public event or parade. When necessary the Chief of Police shall see that “No Parking” signs are posted to such effect at least 12 hours prior to the event, and it shall be unlawful for any person to park, remain parked or leave unattended any vehicle in violation thereof. No person, however, shall be liable for parking on a street un-posted in violation of this section.

§101.04 PICKETING

- (A) *General requirements.* Peaceful picketing shall be allowed in the Town provided the same is done in accordance with the following regulations:
 - (1) Picketing shall be conducted only on sidewalks or other Town-owned areas normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on a portion of any street used primarily for vehicular traffic.
 - (2) Picketers shall observe the right of non-picketers to utilize the public rights-of-way for passage on foot and shall at all times keep the public rights-of-way free and clear for utilization by other pedestrian movement.
 - (3) Picketers shall walk in single file and not abreast.
 - (4) Picketers are encouraged to provide notice to the Chief of Police of intent to picket.
- (B) *Interruption of passage.*
 - (1) Whenever the free passage of any street or other public area in the Town shall be obstructed by picketers, persons picketing shall disperse or move along when directed to do so by a police officer of the Town.
 - (2) Whenever the free passage of any street or other public area in the Town shall be obstructed by a crowd, the persons composing such crowd shall disperse or move along when directed to do so by a police officer of the Town.
 - (3) Nothing in this section shall prohibit any person from reconvening after dispersing so long as free passage of any street or other public area is not obstructed.

- (C) If more than one group of picketers desire to picket at the same time at or near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to picket in order to preserve the public peace. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers arrived first.
- (D) Spectators of pickets shall not physically interfere with individuals engaged in picketing. Picketers and spectators of pickets shall not speak fighting words or threats that would tend to provoke a reasonable person to a breach of the peace.

(Ord. No. 2440 repealed Chapter 101 9-23-2019; Ord. No. 2441, Chapter 101A passed 9-23-2019)