

ORDINANCE NO. 2007-14

AN ORDINANCE AMENDING THE BOROUGH OF
CHAMBERSBURG CODE OF ORDINANCES, CHAPTER
204, PARADES AND PUBLIC GATHERINGS

Be it ordained by the Mayor and Town Council of the Borough of Chambersburg, as follows:

SECTION NO. 1. The Code of the Borough of Chambersburg is hereby amended by deleting and repealing Chapter 204, Parades and Public Gatherings, and replacing it with the following:

SECTION NO. 2. The Code of the Borough of Chambersburg is hereby amended by adding thereto a new Chapter 204, Parades and Public Gatherings, to read as follows:

CHAPTER 204
PARADES AND PUBLIC GATHERINGS

204-1 Title and Purpose

This Chapter shall be known and may be cited as the “Parade Ordinance of the Borough of Chambersburg”. The purpose of the permit system is not to exclude communication of a particular content, but to coordinate multiple uses of limited space, to assure preservation of the street, park and public facilities, to prevent uses that are dangerous, unlawful, or impermissible and to assure financial accountability for damage caused by the event.

204-2 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH - The Borough of Chambersburg, a municipality,

BOROUGH MANAGER – The Borough Manager of the Borough of Chambersburg, Chambersburg, Pennsylvania, or designee.

BOROUGH SECRETARY - The Borough Secretary of the Borough of Chambersburg, Chambersburg, Pennsylvania, or designee.

CHIEF OF POLICE – The Chief of Police of the Borough of Chambersburg, or designee.

COUNCIL – The Mayor and Town Council of the Borough of Chambersburg

DEMONSTRATION – Any public display or expression of group feelings toward a person or cause; or a show of force

PARADE – Any parade, march, ceremony, show, exhibition, block party, carnival, pageant or procession of any kind or any similar display in or upon any street, park or other public place in the Borough. Any gathering in or upon which the streets are occupied for the purpose of a march, procession or demonstration. Gatherings on sidewalks that do not block the sidewalk are not parades.

PARADE PERMIT – A permit as required by this chapter.

PERSON – Any individual or group of individuals, firm, partnership, association, corporation, company or organization of any kind.

PROCESSION – A group of individuals moving along in an orderly or disorderly way in a manner other than for normal pedestrian or vehicular traffic.

STREET – A public right-of-way or portion thereof intended for general public use to provide means or travel for vehicles and pedestrians. The word “street” shall include the words: street, avenue, road, highway, thoroughfare, way, drive, lane, court, cul-de-sac, and alley but shall not include driveway or sidewalk.

204-3 Permit Required

No parade shall be conducted by any person upon any street in the Borough of Chambersburg without first obtaining a permit from Council through the Borough Secretary, or designee. No person shall participate in a parade prior to full compliance with the provisions of this chapter. The Borough Secretary shall inform Council concerning the granting and issuance of any parade permit. The granting of a permit shall not constitute an endorsement of the applicant by the Borough of Chambersburg.

204-4 Exceptions

Exceptions. This chapter shall not apply to:

- (1) Funeral processions
- (2) Wedding processions
- (3) Parades sponsored by the Borough of Chambersburg,

204-5 Permit Application

A person seeking issuance of a parade permit shall file an application with the Borough Secretary, or designee, on forms provided by the Borough:

Filing period. An application for a parade permit shall be filed with the Borough Secretary, or designee, not fewer than twenty-eight (28) days in advance of the proposed parade date. No fee shall be charged for such permit. Where good cause is shown, the Borough Secretary, or designee, shall have the authority to consider any application hereunder which is filed fewer than twenty-eight (28) days in advance of the proposed parade date.

A. Application Contents. The following information shall be included on said application.

- (1) Name, address and telephone number of the person seeking to conduct such parade and requesting the permit.
- (2) If the parade is proposed to be conducted for, on behalf of or by any organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
- (3) The name, address and telephone number of the person or persons who will be in charge of and who will be responsible for its conduct. A concise statement of the purpose of the parade.
- (4) The date when the parade is to be conducted and the hours when such parade will start and terminate.
- (5) The route to be traveled, the starting point and the termination point including a map depicting the course of the parade or the location of the parade.

- (6) A statement as to whether the parade will occupy all or only a portion of the width of the streets or public land proposed to be traveled.
- (7) The location by streets of any assembly (formation and disbanding) areas for such parade including time at which units of the parade will begin to assemble. If assembly area is on private property, the name, address and telephone number of the property owner and/or a letter of permission for assembly.
- (8) The approximate size and length of the parade including the approximate number of persons and vehicles in the parade including number and types of animals (if any).
- (9) Any additional information which the Borough Secretary shall find reasonably necessary in order to make a fair determination as to whether a permit should be issued.

204-6 Limitations on permit

No permit issued hereunder shall authorize or excuse any breach of the law or any trespass upon the rights of others or render the Borough of Chambersburg liable for any damage committed or caused.

204-7 Permit fee

There is no fee for the permit. However, a person sponsoring a parade will be informed prior to the issuance of a permit that if the cost of directing traffic for the event exceeds \$300.00, the person will be responsible for the costs exceeding \$300.00. Direct costs incurred by the Borough to control traffic as a result of a parade shall be borne by the applicant. Costs shall be limited to direct out-of-pocket expenses plus a 20% mark-up, incurred by the Borough such as, but not limited to, wages paid to Borough employees. No permit shall be issued until all costs for prior parade permits issued to the applicant shall have been paid in full. No costs shall be imposed on the applicant for providing police protection for the parade except for parades that are for Downtown Chambersburg, Inc. or Downtown Business Council events in which all police-related time will be charged.

204-8 Insurance

Each person filing an application for a parade permit shall provide the Borough with a Certificate of Insurance evidencing that said person maintains insurance which will protect that person and the Borough of Chambersburg from claims for damages for personal injury, including accidental death, as well as claims for property damages which may arise from the conduct of the parade. Excluded from any claim for damages will be damages related to persons objecting to the content of the proposed or actual message of the applicant. The amounts of such insurance shall be as follows:

Public liability insurance in an amount of not less than \$1,000,000 for injuries, including accidental death, to any one person and property damage insurance in an amount of not less than \$1,000,000. The Certificate of Insurance shall name the Borough of Chambersburg as an additional insured and shall be provided by an insurance company authorized to do business in the Commonwealth of Pennsylvania and acceptable to the Borough.

NOTE: The Parade Permit will not be issued prior to receipt of the Certificate of Insurance.

204-9 Conditions

The Borough Secretary, or designee, shall have the authority to designate an alternate date, time, duration or course for any parade upon any street or public area for which a permit is requested. This authority shall be exercised to accommodate competing demands on the use of public streets. In addition, the Borough Secretary may adopt any reasonable conditions to better protect the public and insure compliance with this ordinance. Any time, place, and manner limitations must not be based on the content of the message, must be narrowly tailored to serve a significant governmental interest, and must leave open ample alternatives for communication.

The Chief of Police, or designee, shall have the authority to determine the necessary personnel, supplies and equipment for any parade. Acceptance of the permit by the applicant shall constitute acceptance of all permit conditions. NOTE: The Borough is not required to close streets for security (ie. protection of the applicant or the parade members related to their actual or proposed message) purposes and is not required to provide police for security purposes at parades.

A. A permit shall be denied if:

- (1) the application for permit (including any required attachments and submissions) is not fully completed and executed;
- (2) the applicant has not tendered the required insurance certificate;
- (3) the application for permit contains a material falsehood or misrepresentation;
- (4) the applicant is legally incompetent to contract or to sue and be sued;
- (5) the applicant or the person on whose behalf the application for permit was made has on prior occasions damaged Borough property and has not paid in full for such damage, or has other outstanding and unpaid debts to the Borough;
- (6) a fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy at the proposed location of the parade, or part thereof;
- (7) the use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the Borough and previously scheduled for the same time and place;
- (8) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of any street, park or other public place in the Borough, or part thereof;
- (9) the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of any street, park or other public place in the Borough, of Borough Employees or of the public;
- (10) the applicant has not complied or cannot comply with applicable requirements, ordinances or regulations of the Borough concerning the sale or offering for sale of any goods or services;
- (11) the use or activity intended by the applicant is prohibited by law, by this Ordinance and ordinances of the Borough, or by the regulations of the Recreation Department.

B. If a permit is denied then the denial shall clearly explain the reason for the denial and what, if anything, must be done to correct the reason for the denial.

C. The Chief of Police, or designee, shall have the authority to withdraw permission to conduct the event if he feels that due to severe adverse weather and/or traffic conditions the event would be unsafe.

D. The Borough Secretary or Chief of Police, or their designees, may at any time revoke any permit if there shall have been committed any breach of the terms and conditions under which the same was issued or a violation of the terms of this chapter, upon giving notice to the person to whom the permit was issued notice of such revocation. From the time of such notice of revocation, any act done under color of such permit shall subject the person doing or allowing it to be done to the same penalty as if he or she had done such act without such permit, unless such revocation is disapproved as hereinafter provided. If a permit is revoked then the revocation shall clearly explain the reason for the revocation and what, if anything, must be done to correct the reason for the revocation.

204-11 Appeals

Any person aggrieved shall have the right to appeal the denial or revocation of a parade permit to the Borough Manager, or designee. The appeal shall be taken by sending a letter to the Borough Secretary requesting that the Borough Manager hear an appeal of the decision to deny a parade permit. The letter must be sent by certified mail or hand delivered to the Office of the Borough Secretary of the Borough of Chambersburg at 100 South Second Street, Chambersburg, Franklin County, Pennsylvania, and must be received by the Borough Secretary within 10 days from the date on which the applicant received notice of the denial of the application for a parade permit. The Borough Manager must render a decision on said appeal, in writing, within 10 days of receipt of the appeal. If the applicant is not satisfied with the Borough Manager's decision then they may appeal to the Court of Common Pleas of the Thirty-Ninth Judicial District, Franklin County Branch within 30 days of the Borough Manager's written decision.

204-12 Standards for permit issuance

The Borough Secretary, provided the other requirements of this Chapter are met, shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, it is determined that:

- A. The conduct of the parade will not so substantially interrupt the safe and orderly movement of traffic within the Borough on and contiguous to the proposed route so as to create a real and present danger to the health, safety and welfare of the residents of the Borough.

- B. The conduct of the parade will not create a real and present danger to the health, safety and welfare of the citizens of the Borough by preventing fire-fighting equipment, ambulances, rescue vehicles and/or police vehicles from being able to reach any property in the Borough.
- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Borough other than that to be occupied by the proposed line of march and areas contiguous thereto.
- D. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance services to areas contiguous to such assembly areas.
- E. The conduct of such parade will not interfere with the movement of firefighting equipment enroute to a fire.
- F. The conduct of the parade is not reasonably likely to cause injury to person or property, to provoke disorderly conduct or to create a disturbance. This excludes content of message.
- G. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.
- H. The parade is not designed to be held primarily for private profit.

204-13 Violations and Penalties

Any person, association, organization, firm or corporation who or which shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than 30 days.

SECTION NO. 3. Severability. The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid to unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

SECTION NO. 4. This ordinance shall become effective upon adoption.

PASSED By Town Council this 13th day of August, 2007.

President of Town Council

ATTEST:

Secretary of Town Council

APPROVED this 13th day of August, 2007.

Mayor

CERTIFICATION

I, Tanya Mickey, Borough Secretary, hereby certify that the foregoing ordinance was advertised in the Public Opinion on Thursday, August 2, 2007, a newspaper of general circulation in the Municipality and was duly enacted and approved as set forth at a Regular Public Meeting of Council held August 13, 2007.

Borough Secretary