

Chapter 20

Marches and Public Assemblies

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Sec. 7-20-1 Purpose.

The City recognizes that Marches and Public Assemblies held for the purpose of conveying messages protected by the Constitution play an important role in enhancing the public life of citizens as well as the interrelationship between citizens and their government. To that end, the City will review requests to hold Marches and Public Assemblies in the context of the safety and welfare of the community and the availability of resources, but will do so in an expedited and abbreviated manner to ensure that those wishing to hold and/or participate in such events may do so without unreasonable delays or restrictions.

Code in effect 2/12/19

Sec. 7-20-2 Definitions.

- (a) **“Business Days”** means those days in which municipal offices are open for conducting City business and does not include Saturday, Sunday or those holidays published yearly on the City’s website.
- (b) **“March”** means a group of persons, of any number, moving from one place to another on a public way or public place, which requires a street closing or otherwise requires police officers to stop, reroute, or alter the normal flow in of vehicular or pedestrian traffic because marchers are unlikely to comply with traffic regulations and controls. A march is for the purpose of conducting activities which are protected by the Constitution. All circumstances which do not meet the specific definition of a March will be reviewed as a Special Event under Chapter 12. A walk/run does not constitute a March and shall be reviewed as a Special Event under Chapter 12.

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- (c) **“Public Assembly”** means an organized public gathering or group of persons, of any number, which is reasonably anticipated to obstruct the normal flow of vehicular or pedestrian traffic upon a public way or the normal use of a public place because those assembled will not comply with the traffic regulations or controls, or with other public place use laws or policies, and will be located in one (1) place, but does not meet the definition of a march. A public assembly is for the purpose of conducting activities which are protected by the Constitution. All circumstances which do not meet the specific definition of a Public Assembly will be reviewed as a Special Event under Chapter 12.
- (d) **“Extraordinary Services”** means reasonable and necessary services provided by the City which specifically result from the Public Assembly or March. Extraordinary services result in measureable financial costs which are above and beyond the normal levels of public health and safety services on a nonevent day. Extraordinary services will normally be those services requiring city employees to be specifically assigned to tasks in support of the Public Assembly or March and/or those services resulting in overtime pay or similar costs which result from the event. Examples of extraordinary services may include police protection, traffic control, fire monitoring, dedicated paramedic service, parks services, and other services necessary to ensure the protection of participants and citizens, the proper functioning of City services, and the proper administration of this ordinance and policy. The City will make reasonable efforts to adjust the schedules of employees to minimize the requirement for overtime pay or other costs for Extraordinary Services where sufficient advanced notice of the event is provided. (At least forty-five (45) days.)

Code in effect 2/12/19

Sec. 7-20-3 Permit Required.

No person or entity acting as an event organizer shall set up for, hold or conduct a March or Public Assembly within the municipal boundaries of the City of Onalaska without first obtaining a March or Public Assembly permit. The following Public Assembly or Marches do not require a permit:

- (a) Groups of fifty (50) people or fewer may hold a Public Assembly in a City Park or other similar City owned property without a permit.
- (b) Marches and Public Assemblies on sidewalks that do not obstruct the normal flow of pedestrian traffic do not require a permit.
- (c) Protests, marches and public assemblies in response to breaking news where such protest, March or Public Assembly is a spontaneous and immediate (within twelve (12) hours of the event occurring) response to a current event.

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The City Clerk, or their designee, shall have the exclusive authority to determine whether or not a permit is required for any particular event. The City's review of any permit application and/or its subsequent issuance of a permit shall not be construed as acceptance by the City or its representatives of any liability or responsibility for any injury or damage relating to the March or Public Assembly. Marches and Public Assemblies are temporary in nature and do not vest any permanent rights.

Code in effect 2/12/19

Sec. 7-20-4 Permit Requirements.

It shall be the policy of the City of Onalaska to review permit applications for Marches and Public Assemblies solely on the basis of their effect on the Health, Safety, and Welfare of the community. The City does not discriminate against any particular group or type of speech expected to be present when reviewing and acting upon any March and/or Public Assembly permit application.

- (a) Completed written applications for any March or Public Assembly permit along with the application fee* should be filed with the City Clerk a minimum of ten (10) business days prior to the proposed March or Public Assembly. The City will review applications filed less than ten (10) business days prior to the proposed March or Public Assembly but cannot guarantee that necessary City services will be available. Applications shall be on the form approved by the City and signed by the person or authorized representative of the entity organizing the March or Public Assembly. In lieu of the application fee, the event organizer may submit with the application form a request that the fee be waived and provide in detail the reasons for financial hardship and any other reasons for such request.
* No application fee at this time for March – waiver request unnecessary.
- (b) The Chief of Police, or designee within the Police Department, shall have the authority to take all necessary action regarding the March or Public Assembly permit application, including the approval or denial of the application. Applications shall be reviewed and approved as submitted, denied as submitted, approved with conditions, or tentatively approved within three (3) business days after the application is submitted.
- (c) Tentative City approval may be given within the response period for circumstances which involve property or right of way controlled by other persons or governmental entities, such as circumstances involving right of way or property controlled by the State of Wisconsin.

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- (d) During the review of the application, the Chief of Police may consult with all persons reasonably necessary and available for such consultation, including the event organizers and all other persons, entities, agencies, and governmental officials deemed necessary by the Chief in order to make an informed decision regarding the application's effect upon the health, safety, and welfare of the community.
- (e) March and Public Assembly permit applications shall be reviewed for their effect upon traffic control, public safety, as well as other considerations affecting the public health, safety and welfare including the date, time, location and/or route, police and fire protection necessary, and sanitation provisions required. The application review will also include analysis of the organizer's plans to reasonably ensure that participants/attendees will also comply with all applicable laws.
- (f) The City's decision related to March and Public Assembly permit applications shall include a requirement that the application fee be paid or that the fee is waived, a requirement that the costs for Extraordinary Services be paid by the organizer(s) or that the costs are waived, and a requirement that any other condition(s) allowed by law and which are necessary to ensure the health, safety, and welfare of the community shall be incorporated into the terms of any approved permit. Request for waiver of extraordinary services must be made to the Common Council.
- (g) In those circumstances in which it is determined that costs for Extraordinary Services shall be paid by the organizer(s), the Chief of Police shall have the authority to require that some or all of the estimated costs for such services be paid to the City in advance or deposited in an approved escrow account for the purpose of paying for such costs, or to require that another form of security be submitted by the organizer(s) for the purpose of paying for such costs.
- (h) Before any March or Public Assembly permit is denied in whole or in part, the Chief of Police shall make all reasonable efforts to discuss with the applicant the proposed event and its effect upon the public safety, and shall provide or suggest to the applicant reasonable alternative dates, times, locations, or other terms, conditions, and parameters of the March or Public Assembly, to the extent that any such alternatives, terms, or conditions may be reasonably carried out while protecting the public's health, safety, and welfare.

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- (i) Any applicant seeking to appeal the decision of the Chief of Police shall make such appeal, in writing, to the City Administrator, or designee. The City Administrator, or designee, and Council President shall meet with the Chief of Police and the applicant within three (3) business days after receiving an appeal. Legal counsel and other persons with relevant factual information may participate in this appeal meeting. The City Administrator, or designee and Council President shall provide the parties with an oral decision at the conclusion of the meeting. A written decision may be requested by either the applicant or the Chief of Police, and shall be made available by the City Administrator as soon as practicable.
- (j) An applicant may appeal the decision of the City Administrator, or designee and Council President to the Common Council by filing a notice of appeal with the City Clerk. The Clerk shall place this issue on the agenda for the next regularly scheduled Council meeting in which legally required notice may be provided to the public.
- (k) The Council may affirm, reverse, or modify the determination of the City Administrator, or designee, at the conclusion of the agenda item and after all interested persons have had an opportunity to be heard at the noticed public meeting.
- (l) Any applicant aggrieved by the decision of the Common Council may seek such other legal relief as may be available.

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Sec. 7-20-5 Permit Fees.

A non-refundable fee is required for all Public Assembly permit applications as set forth in the City fee schedule. Permit applications may include a request to waive the application fee. However, permits shall not be issued unless the fee is paid or it is specifically waived by the Council. The permit application fees identified herein are separate from other specific fees or licenses required, and separate from any requirement to reimburse the City for the actual cost of any Extraordinary Services required for the permitted event, or for damage or destruction resulting from the event.

(a) Permit Fees

- (1) Public Assembly Permits (non-refundable) shall be as set forth in the City Fee Schedule and shall be categorized as follows:
 - a. Events with one thousand (1,000) or more people in attendance*
 - b. Events with five hundred (500) to nine hundred ninety-nine (999) people in attendance*
 - c. Events with three hundred (300) to four hundred ninety-nine (499) people in attendance*
 - d. Events with two hundred ninety-nine (299) people or less*
 - e. Events which are two (2) or more days**
** Multi day events (e) fee shall be in addition to the fee based on the number of attendees.

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- (2) All other required charges and/or fees, including but not limited to facility rental, food and beverage sale permits, temporary structure fees, and equipment rental fees, etc., must be paid in addition to the permit application fee. *Submittal of a permit application does not reserve a park or any other City facility, property, or services necessary for the event.*
- (3) Applicants for Public Assembly permits may include in their initial submission a request that the permit administrative fee be waived due to substantial financial hardship.
- (4) There is currently no fee for Marches except those fees for Extraordinary Services.
- (5) Fees for Extraordinary Services shall be as set forth in Sec. 7-12-7(b).

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Sec. 7-20-6 Extraordinary Services.

The City, through the Chief of Police, shall address the issue of costs for Extraordinary Services before or at the time final action is taken on a March and Public Assembly permit application. Extraordinary Services will generally consist of vehicular and pedestrian traffic control and of efforts to ensure the safety of persons and property in crowded and/or potentially volatile situations.

- (a) The City may require that event organizers pay all costs for Extraordinary Services provided by the City for the event, with the total costs incurred to be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- (b) The City may require the event organizer(s) pay less than the costs for Extraordinary Services provided by the City in an amount to be determined by the Chief of Police depending upon the unique circumstances of the event, with the remaining actual costs to be waived. Any amounts required to be paid shall be mailed via invoice to the organizer(s) within thirty (30) days after the conclusion of the event.
- (c) The City may waive all costs for Extraordinary Services provided for the March or Public Assembly. Requests for waiver will be reviewed by the Common Council and shall consider the event sponsors are making good faith efforts to minimize adverse effects on the health, safety and welfare of the community and as a result minimizing the need for City employee involvement, the burden the Public Assembly or March places on the City's taxpayer's as a whole and the financial condition of the event organizers.
- (d) In the event that the City requires that the event organizer(s) pay some or all of the costs for Extraordinary Services provided by the City for the event, then the City may require that funds be placed in escrow, or other necessary security be provided, before the permit is issued. The amount of the cash deposit or other security shall be based upon the cost estimate of the Extraordinary Services which may be incurred. The Special Events permit shall not be issued until the event organizer(s) have complied with any requirements for security.

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- (e) Security for the estimated costs of Extraordinary Services may be in the form of a cash deposit in an escrow account, bond, letter of credit, or similar instrument, with the type and form of the instrument to be at the discretion of the City.
- (f) If the actual costs for Extraordinary Services provided exceed the security and has not been waived by the Chief of Police, then the difference shall be billed to and paid by the event organizer(s). If the actual costs for Extraordinary Services provided is less than the amount of funds deposited in advance of the event, then any unused amounts must be returned to the event organizer(s) within a reasonable time after the event concludes. Any other security instrument must be either used or released by the City within a reasonable time after the conclusion of the event.

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7-20-7 Indemnification and Hold Harmless.

Organizers of Marches and Public Assemblies shall be required to sign an agreement in a form acceptable to the City in which they agree to indemnify the City of Onalaska and its departments and hold the City and its departments, employees and agents harmless from any liability to any person resulting from any damage or injury to the property or any person which occurs in connection with the permitted event proximately caused by any actions or inactions of the event's organizer, their officers, employees or agents or any person under their control insofar as permitted by law.

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7-20-8 Event Cancellation.

The Chief of Police may cancel a Public Assembly or March, regardless of whether or not a permit has been issued, without prior notice for any significant change in conditions which would or may adversely affect the public health or safety of the community, or for any condition that would place facilities, grounds, or other nature resources at risk of damage or destruction if the event were permitted to take place.

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Sec. 7-20-9 Penalties.

In addition to other potential fines, penalties, and/or charges as described in the Onalaska Municipal Code, the violation of the terms of the March or Public Assembly permit shall be punishable by forfeiture of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00). Each day of violation shall be considered a separate offense. In addition, the City may enforce this section by way of immediately revoking the permit, seeking injunctive relief, and all other remedies available at law and in equity.

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The penalties set forth herein shall also apply to all persons, organizations, and entities that organize events which are required to obtain a March or Public Assembly permit but fail or refuse to do so. If any person violates any provision of this Ordinance, the City shall have the authority to institute the appropriate legal action or proceedings to ensure compliance and to thereby prohibit such person from violating these conditions.

The failure to obtain a March or Public Assembly permit before holding or conducting a March or Public Assembly or the failure to abide by, March or Public Assembly permit requirements, will constitute a violation of this section and may result in the termination of the event, denial of future permit applications, or issuance of a City Ordinance citation.

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Sec. 7-20-10 Severability.

If any provision of this Ordinance or application thereof to any person or circumstances be held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected. The City of Onalaska reserves the right to amend or repeal this Ordinance at any time upon proper notice; and all rights, privileges and immunities conferred by this Ordinance or by acts done pursuant hereto shall exist subject to such power.

Once an application for licensure or permit been made under this Title and the required fee paid, the fee is non-refundable regardless of whether the license or permit is granted.

Code in effect 2/12/19