

## **Survey of Government Regulations on Public Assembly in DuPage Municipalities**

This report summarizes an analysis of government regulations on public assembly. The survey underlying this report focused on municipalities in DuPage County and their procedures and restrictions on people's ability to publicly assemble, such as in a protest, rally, march, or parade.

State law provides procedures for assembly permits where regulations are otherwise lacking, but the Illinois Supreme Court has found it unconstitutional for being too vague. The Illinois Public Demonstrations Law (430 ILCS 70) has as its purpose to maintain good order on Illinois roadways. Therefore, it prohibits assemblies on roadways unless the assembly organizers obtain a permit from the appropriate municipality or county, provided they have a permit or permission process. A violation of the statute is a misdemeanor. The statute requires assembly organizers to obtain a permit or permission from the "principal law enforcement officer" in those districts that do not have a permitting procedure in place; the court found "principal law enforcement officer" to be too vague because it could be interpreted to mean multiple different government actors. Thus, the procedures "chill speech": it inhibits people from exercising their First Amendment freedom of assembly because it is too confusing to figure out where to obtain permission. For more on this, read the 1985 case *People v. Bossie*, which can be found at 483 N.E.2d 1269.

### **Methodology:**

The study focused on the 38 municipalities of DuPage County. Research focused on the following:

- Does the municipality have a permit or permission process?
  - What are the deadlines for the permit application?
  - Are there fees, and if so, how much are they?
- Does the municipality require the assembly organizer's to obtain insurance for their public assembly?
  - If so, what are the deadlines provided for filing proof of insurance?
  - If mentioned, what specific insurance coverage is required?
- What are the time restrictions on public assembly, and does the municipality place limits on the number of people who may participate?
- Does the permit procedure explicitly apply to sidewalks?
- Where can the public find the municipal regulations governing public assembly?

Initial research was done by searching online municipal websites and municipal codes. Very few of the provisions found that govern public assembly explicitly used the terms “protest” or “march.” Key search words used to locate the relevant provisions included: “special event,” “temporary use,” “parade,” and “open air meeting.” Sometimes, the only information available fell under “block party” or “amusement.”

### Findings:

Of the 38 municipalities surveyed:

#### Permit required?

- 26 municipalities required an application for a permit under all circumstances;
- 5 municipalities required a permit only if there were street closures or if the assembly was in a park or building
- 7 municipalities had no formal restrictions and did not require a permit. Of these, 2 mentioned needing to contact the municipality with a formal request if street closures or building use is required, and 1 (Elmhurst) required emailing the municipality under all circumstances
- 25 municipalities provided an option for street closures

#### Deadline for permit?

- 27 municipalities had a deadline for either the permit application or providing notification of the public assembly
- This deadline ranged from 72 hours prior to 90 days prior to the event

#### Fees charged?

- 10 municipalities charged fees for the permit
- This fee ranged from \$10 to \$50

#### Insurance required?

- 17 municipalities required insurance under any circumstance (regardless of street closures or no street closures)
- 4 municipalities required insurance only in the case of street closures

#### What amount of insurance is required?

- 12 municipalities mentioned a specific amount of insurance required
- 4 municipalities had the same requirement of \$1,000,000 per occurrence and \$2,000,000 aggregate liability

#### Time and participant number limitations?

- 6 municipalities mentioned time and number of participant restrictions on the public assembly

Public accessibility of municipal public assembly regulations?

- 19 municipalities provided an application for public assembly on the municipal website

Less than 75% of the municipalities had online information on whether they require permits or permission for public assembly (27 out of 38). Eleven municipalities had no relevant sections in their municipal code or had no information on their website on public assembly regulations. In one case, the municipality had a requirement for a permit and fees but no specifics on how to obtain that permit or what the required fees were. CAC sent Freedom of Information Act (FOIA) requests to each of these municipalities to obtain their rules and regulations governing public assembly. After the five-day response period had passed as provided by FOIA, CAC contacted six of the municipalities that had not answered the request through follow up phone calls.

Error may have been introduced in this survey: (1) because of the many terms used in describing public assembly activities, and (2) some of the FOIA'ed municipalities did not provide records but only shared information. Of the municipalities receiving a FOIA request seeking their public assembly regulations, many replied by saying that the municipality did not have specific requirements for events. Specifically, 4 out of the 11 municipalities responded with no formal policy regarding marches. Out of the 7 municipalities that did have regulations, 5 of them only applied if the march requires use beyond sidewalks, such as on streets, in buildings, or in parks.

Municipal Name	Permit required (Y/N)?	Permit due date?	Fees required, if any?	Insurance required (Y/N)?	What kind of insurance?	Application available on website (Y/N)?	Special Notes
Addison	Y	14 days prior	\$10	N		N	Permit requester must be responsible for everything and hold village harmless
Aurora	Y	90 days prior	Variable depends on event's needs	Y	\$1 million public liability / \$3 million aggregate	Y	Must apply for insurance 14 days in advance of event

Bartlett	Y	10 days prior (insurance submitted)	None	Y	Combined single limit \$1 million and aggregate \$1 million	N	Application should include route of parade
Batavia	Y	30 days prior	None	Y	1,000,000 per occurrence 2,000,000 aggregate	Y	
Bensenville	Y	72 hours prior	None	N		N	Time restrictions, Limit 500 people
Bloomington	Y	None	None	Y	1,000,000 per occurrence 2,000,000 aggregate	N	Must not obstruct or impede traffic
Bolingbrook	Y	2 weeks prior	None	N		Y	Requires signature by 75% or more of the homes affected in the area, time restrictions
Burr Ridge	Y	120 days in advance	None	Y	Depends on municipal discretion	Y	
Carol Stream	Y	72 hours prior	None	Y	Certificate of Liability Insurance required	Y	
Clarendon Hills	Y	14-60 day notice (depends on classification)	None	Y	Low Impact: 300,000 per occurrence Medium: 500,000 if no alcohol, 1,000,000 if alcohol, High 1,000,000	Y	Village determines classification of event, can request street closures

Darien	N					N	No requirements unless street closures (written request)
Downers Grove	Y	14 days prior	unspecified	N		N	
Elk Grove Village	N					N	No policy, notify village as courtesy
Elmhurst	N	2 weeks prior		N		N	Email cityadmin@elmhurst.org (required)
Glen Ellyn	Y	60 days prior	\$35	Y	2,000,000 aggregate	Y	Contact police chief if need open routes for street us. Insurance due 21 days prior
Glendale Heights	Y	15-30 days prior	\$35	N		N	Time restrictions
Hanover Park	Y (only if in building other than theatre, lode room, or auditorium)			N		N	unlawful assemblies pertain to assemblies in buildings, must notify village clerk who can issue permit
Hinsdale	N			N		N	
Itasca	Y (only need special event permit if street closures)	60 days prior		Y (only if need special event permit)	Name village insured	Y	Political marches/assemblies are NOT considered special events if do not obstruct traffic in parade form

Lemont	Y	30 days prior	\$50	N		Y	Limit 800 people, time restrictions
Lisle	Y	60 days prior	\$25	Y	1,000,000.00 per occurrence and 2,000,000.00 aggregate	Y	Can request street closures
Lombard	Y	20 business days prior		Y	1,000,000 comprehensive general liability, 1,000,000 automotive liability	Y	Need to contact city for street closures
Naperville	Y	21 days prior (minor event), 120 days prior (major event)		Y	General liability insurance aggregate 2,000,000	Y	Distinction between minor and major special events depending on if they require street closure, insurance due 30 days prior
Oak Brook	Y (only need special event permit if impedes traffic)	90 days prior	\$35	Y (only if need special event permit)	2,000,000 per occurrence	Y	
Oakbrook Terrace	N			N		N	
Roselle	Y	60 days prior	\$35	Y	Depends on municipal discretion	Y	Can request street closures

Schaumburg	Y	45 days prior using public right of way, otherwise 21 days prior	None	Y	General Liability Insurance	Y	
Saint Charles	Y	90 days prior if street closure, 30 days if not		N		Y	
Villa Park	Y	30 days prior	\$75	Y (only if street closures)		Y	Permit fee can be waived if for nonprofit
Warrenville	Y (if in park)	None	\$25 if residential group, \$50 if non-residential	N	No insurance but must deposit \$50 cash bond for residential group, \$500 for nonresidential group	N	Permit applies to park use (not street or sidewalk). Also time based regulations on demonstrating in front of schools/places of worship
Wayne	N			N			No rules/regulations
West Chicago	Y	90 days prior if requires street closure		Y	1,000,000 per occurrence 2,000,000 aggregate	Y	Insurance due 21 days prior to event
Westmont	Y	72 hours prior	None	N		N	Time restrictions
Wheaton	Y	Permit can last no more than 7 days	\$50	Y	1,000,000 for one incident	N	

Willowbrook	N						No regulations if no street use. If public streets need to be used, a letter with specifics on what and where event is must be submitted to village administrator
Winfield	Y (only need temporary use permit if street closures)	None	None	Y (if temporary use permit required)	unspecified	N	If no street closures then no restrictions. Recommended to coordinate with police chief
Wood Dale	Y	30 days prior	None, unless commercially sponsored (\$50)	N		N	
Woodridge	Y	60 days prior, 2 weeks prior for street closures	None	Y	public liability insurance, amount is discretion of village	Y	Time restrictions, Assistant Village Administrator must be contacted for street or sidewalk use

### Analysis:

Most of the municipalities had some regulations governing public assembly in their districts, but they varied in the comprehensiveness of their policy. Although a majority require permitting under any circumstance (26 of 38), many municipal public assembly regulations trigger only where there are street closures required for the public assembly. Just over 70% (27 of 38) required a permit or notice within a specified deadline, with the wide range of 72 hours to 90 days prior to the public assembly. Of the municipalities requiring permits and fees, just over a third charge fees, although they are nominal at a range of \$10 to \$50. Fewer than half (17 of 38) require insurance under any circumstance, and coverage amounts varied. Notably, less than a fourth of municipalities explicitly limited the number of participants or placed time constraints in



their regulations governing public assembly. Just over 70% of the 26 municipalities requiring permits make their permits easily accessible to the public on their website.

In general, most municipalities provided sufficient information for citizens looking to hold a protest. However, without an obvious link to the relevant regulations or otherwise obviously notable on the municipal website, it can be difficult to track down a municipality's regulations. This is exacerbated by the many terms that are used to describe different kinds of public assembly activities. In some cases, the regulations provided for the availability of licenses liquor sales, leading to confusion as to whether the regulations applied to a typical political protest or march.

Many municipalities have relaxed rules on public protests, which is a positive factor in allowing citizens to exercise First Amendment rights. However, insurance requirements may be cost-prohibitive to some would-be assembly organizers, and they may even inhibit people from exercising their First Amendment freedoms. Municipalities and counties should have a waiver procedure for any would-be assembly organizers to avoid a challenge to their regulation's constitutionality.

Municipalities and counties should provide the most complete and accessible information on public assembly regulations. If the jurisdiction does not regulate public assembly, it should make that clear. In each case, people have information in planning their public assembly. Without any information, people may be inhibited out of fear of unknown consequences. Municipalities and counties should include both a link to the necessary permit application on the website as well as a section in the municipal code titled "Special Events" that specifically mentions the municipality's policy for people assembling on roadways. They should also clearly outline any differences in procedures regarding assemblies on sidewalks, streets, parks, and buildings.