

Ordinance 2019-24

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF DAHLONEGA, GEORGIA WHICH APPEARS IN THE PUBLICATION OF THE CODE OF THE CITY OF DAHLONEGA, GEORGIA AT: CHAPTER 28: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE IV.: SPECIAL EVENTS BY ADDING, DIVISION 4: EMERGENCY REGULATIONS FOR PUBLIC ASSEMBLIES SAID ORDINANCE TO BE ENTITLED: AN ORDINANCE TO ESTABLISH REASONABLE, CONTENT-NEUTRAL TIME, PLACE, AND MANNER RESTRICTIONS AS TO PLANNED AND SPONTANEOUS DEMONSTRATIONS ON PUBLIC PROPERTY.

Short title: "An ordinance regulating planned and spontaneous demonstrations on public property."

WHEREAS, freedom of speech, assembly, and association are among the fundamental rights guaranteed and protected by the United States and Georgia Constitutions; and

WHEREAS, the City Council enthusiastically supports the exercise of these fundamental rights; and

WHEREAS, the law also recognizes the need for reasonable, content-neutral time, place, and manner regulations to ensure that speech and assembly rights can be exercised safely and without significant disruption to the rights of other members of the public; and

WHEREAS, the U.S. Supreme Court has explained "that even in a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions 'are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.'" *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)); and

WHEREAS, applying this standard, courts have upheld reasonable time, place, and manner regulations for public demonstrations. As one court has explained, "No one could seriously dispute that the government has a significant interest in maintaining public order; indeed this is a core duty that the government owes its citizens." *Menotti v. City of Seattle*, 409 F.3d 1113, 1131 (2005). Further, "once multiple instances of violence erupt, with a breakdown in social order, a city must act vigorously, and more extensively, to restore order for all of its residents and visitors. Adding large numbers of police on the street might be the solution in some cases, but in other cases could lead to more intense violence." *Id.* at 1137. The court further recognized "the need of a city to maintain order and security for its residents and visitors, in the face of violence." *Id.* at 1140.

NOW, THEREFORE, be it ordained, and it is so ordained by the authority of the City Council of Dahlonega, that the Code of the City of Dahlonega be amended to add the following findings and regulations:

The Council hereby finds:

1. In a recent demonstration in the City of Newnan, Georgia, all of the City's available police resources plus the resources of multiple other jurisdictions were needed to prevent and/or address violence and property damage risk arising from the demonstration. Such a massive diversion of resources leaves other parts of the City without adequate police services, as will often

be true of affiliate jurisdictions, as well. Reasonable, content-neutral time, place, and manner regulations protect both the freedom of expression of demonstrators and the rights of others to be safe in the community and to access police services.

2. Reasonable, content-neutral time, place, and manner regulations may be particularly necessary in instances where demonstrators and counter-demonstrators seek to use the same limited public spaces, and have a history of violence against each other.
3. A public demonstration is set to occur in the City of Dahlonega on September 14, 2019. Social media posts and comments from the demonstration's organizers, as well as from those who oppose the primary demonstrators, give the City concern that violence could occur on September 14. Even with a significant law enforcement presence on September 14, the City has reason to believe that the demonstration could result in injury to persons, damage to property, and legitimate safety concerns for the public at large.
4. Accordingly, for demonstrations of this type, additional tools are necessary to ensure that all participants can safely exercise their First Amendment rights and that the surrounding community will be adequately protected. These tools include reasonable, content-neutral time, place, and manner regulations.
5. Different demonstrations may require time, place, and manner regulations tailored to the circumstances at hand. Due to the short notice of demonstrations and the need to prepare quickly for these events, the City Council acknowledges that it is not feasible for the Council to evaluate appropriately tailored regulations for each event. Therefore, it is necessary and appropriate to vest the City Manager with authority to impose reasonable, content-neutral time, place, and manner regulations that are designed to address emergent public-safety concerns related to upcoming demonstrations within the City.

Based upon the foregoing findings the City Council adopts the following regulations:

- A. The City Manager, through written orders, is authorized to issue content-neutral time, place, and manner regulations to govern upcoming demonstrations and counter-demonstrations in the City. Each written order by the City Manager shall make findings demonstrating the necessity for each instance in which time, place, and manner regulations are imposed.
- B. The written orders of the City Manager shall have the purpose of protecting the public's use and enjoyment of public spaces, coordinating multiple uses of a limited public space, assuring preservation of public and private property, protecting the lives and safety of people in the City, and/or preventing conduct that is dangerous or unlawful.
- C. Specifically, the City Manager is authorized to take action by written order based on the following sufficient or articulable facts or information:
  - 1) Two or more groups have announced plans to demonstrate separately but on the same day, and there is either (a) a history of violence between the groups or (b) current social media evidence of potential violence that could cause injury or damage to participants, bystanders, or nearby property; or