



To: Miriam Ramos

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "C. Leen", is written over the name of the City Attorney.

RE: Legal Opinion Regarding Content Neutral Restrictions

Date: June 30, 2015

As discussed, it is my opinion and interpretation pursuant to section 2-201(e)(1) and (8) of the City Code that section 62-186 (e) contains reasonable, content neutral, time, place, and manner restrictions that would apply to public assemblies of a non-commercial or commercial nature with more than 10 people, and can be enforced as such. Please note, a public assembly is defined as follows:

“Public assembly means any meeting, demonstration, picket line, rally or gathering of more than ten or more persons for a common purpose as a result of prior planning that is reasonable and anticipated to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any public area in a place open to the general public.”

I would note that section 62-186(f) expressly incorporates the exceptions in section 62-184, and thereby does not apply to those matters (“The following prohibitions shall apply to all special events, parades and public assemblies, except those listed under section 62-184 . . .”), while section 62-186(e) does not include this limiting language.

It is my opinion that a public assembly may not obstruct or occupy a street or sidewalk in a manner that excludes or obstructs others, or interferes with vehicular traffic, without obtaining a permit. The noise ordinance continues to apply as well.

Please prepare a more extensive memorandum addressing this section. Also, please consider the resolution authorizing the City Attorney’s Office to review sign-related matters to ensure compliance with the First Amendment, which is available here:

<https://coralgables.legistar.com/View.ashx?M=F&ID=3296535&GUID=8E9B7E89-1E0F-4756-9BE0-31DF93F69B52>

• **Sec. 62-186. - Application permit required for work or commercial activities that obstruct or close a public right-of-way or impede traffic; permit for assemblies; permit for parades; prohibitions.**

(e)

Permits for public assemblies shall be required and obtained pursuant to the following:

(1)

No public assembly shall occupy, march or proceed along any public street, roadway or public property except in accordance with a permit issued by the special events committee and approved by the chief of police and with such other applicable regulations as are set forth in this Code.

(2)

The written application for such permit shall be filed with the special events committee, with a copy to the chief of police on an approved form not less than five calendar days or as soon as practicable if the event is of a spontaneous or urgent nature nor more than 60 calendar days prior to the proposed assembly or procession so that the city can make any preparations necessary to provide personnel or other city services to minimize the obstruction to pedestrian and vehicular traffic and to otherwise protect the participants and the public. The application shall include the information required above.

(f)

The following prohibitions shall apply to all special events, parades and public assemblies, except those listed under section 62-184, necessary for use by a disabled person, honor guard, or color guard approved by the chief of police, and will not apply to spontaneous events, block parties, etc.:

(1)

It shall be unlawful for any person at any special event, parade or public assembly to carry or possess any weapon, as defined below.

a.

Any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person.

b.

"Tear gas gun" or "chemical weapon or device" means any weapon of such nature, except a device known as a "self-defense chemical spray." "Self-defense chemical spray" means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

c.

Any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

d.

Any device having one or more darts that are capable of delivering an electrical current.

(2)

It shall be unlawful for any person to carry or possess any sign, poster, plaque or notice unless such sign, poster, plaque, or notice is constructed solely of a cloth, paper, flexible or cardboard material no greater than one-quarter inch in thickness.

(3)

Nothing in this section is intended to authorize the possession or use of materials, weapons or devices that are otherwise prohibited by any other local, state or federal ordinance, statute or regulation. The purpose of this section is to prohibit the carrying or possession of items and materials that have the potential to be used as weapons to cause physical or personal damage, and whose possession might not otherwise be prohibited by local, state or federal law.

(Code 1958, § 24A-3; Code 1991, § 22-188; Ord. No. O-2004-33, § 2, 8-24-2004; Ord. No. 2006-37, § 2, 12-12-2006; Memo. of 2-8-2013)

State Law reference— Field of regulation of firearms and ammunition preempted, F.S. § 790.33.

Herbello, Stephanie

From: Leen, Craig
Sent: Wednesday, July 01, 2015 11:43 AM
To: Herbello, Stephanie
Subject: Fwd: Opinion Re Content Neutral Restrictions
Attachments: image001.png

Please publish.

Sent from my iPhone

Begin forwarded message:

From: "Leen, Craig" <cleen@coralgables.com>
Date: June 30, 2015 at 5:38:16 PM EDT
To: "Ramos, Miriam" <mramos@coralgables.com>
Subject: Opinion Re Content Neutral Restrictions

Miriam,

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Best regards,

Craig.

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