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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

REVEREND WILLIAM SHANKS,
KATHLEEN BENFIELD, REVEREND
GRANT STORMS, and UNITED FOR LIFE,
INC.,

Plaintiffs,

CIV NO.

04-1057
SECT. R MAG. 4

v.

PARISH OF JEFFERSON, LOUISIANA,
JEFFERSON PARISH SHERIFF'S OFFICE,
WILLIAM A. LAZARO, JR., individually and
in his official capacity, and OFFICER
DANIEL SAMROW, individually and in his
official capacity,

Defendants.

VERIFIED COMPLAINT

Come now the Plaintiffs, by counsel and pursuant to the Federal Rules of Civil Procedure,
and for their causes of action against Defendants aver the following:

I.

INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 to protect the First Amendment rights of Plaintiffs and other persons to speak in opposition to abortion. By policy and practice the

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Defendants unlawfully restrict these rights, as the Code of Ordinances, Jefferson Parish, Louisiana (herein “Jefferson Parish Ordinances” or “Ordinances”) are facially overbroad, vague, involve content based and viewpoint discrimination, and unconstitutionally restrict Plaintiffs’ speech. These constitutional defects give rise to both facial and as-applied constitutional challenges to the discriminatory ordinances.

2. Jefferson Parish Ordinances require citizens to obtain prior permission before assembling “any group” or speaking at any “public gatherings” within the unincorporated areas of the Parish.
3. Jefferson Parish Ordinances do not define “group” or “public gatherings.”
4. Jefferson Parish Ordinances do not provide a time limit nor any guidelines regarding when and how an application for permission to speak and assemble must be submitted.
5. The form used for application for permission to speak and assemble indicates that it must be submitted at least 30 days in advance, and must be approved by formal resolution of the Jefferson Parish Council.
6. Jefferson Parish Ordinances subject citizens to criminal and civil sanctions when they engage in routine activities, such as playing radios at low volumes on a public sidewalk and using sound amplifiers for outdoor worship services on the grounds of local churches, if a prior permit and parish council permission is not obtained 30 days in advance.
7. Jefferson Parish Ordinances prohibit leafleting in streets and on sections of public sidewalks.
8. Jefferson Parish therefore restricts the free speech of the Plaintiffs and other citizens.
9. Jefferson Parish officials, including named the Defendants, have applied Jefferson Parish Ordinances against Plaintiffs in a manner designed and intended to deprive and hinder Plaintiffs’ free speech and expressive activities.
10. To redress the irreparable harm that Plaintiffs are suffering, and have suffered, under the Jefferson Parish Ordinances and practices, Plaintiffs seek a declaratory judgment that the Defendants’ policies violate First Amendment rights on their face and as applied and

threatened to be applied to the Plaintiffs and others.

11. Plaintiffs also seek preliminary and permanent injunctive relief to prevent Defendants from further enforcing the challenged ordinances in a manner inconsistent with their constitutional rights, and damages.

II.

JURISDICTION AND VENUE

12. Jurisdiction for this case is based on 28 U.S.C. §§ 1331, 1343, 1367, 2201, 2202, and 42 U.S.C. §§ 1983 and 1988.
13. Venue is proper under 28 U.S.C. § 1391 in the Eastern District of Louisiana because the claims arose in this district.

III.

IDENTIFICATION OF PLAINTIFFS

14. Plaintiff Reverend William Shanks is and was at all times relevant to this Complaint a citizen of the United States and a resident of Metairie, Louisiana.
15. Plaintiff Kathleen Benfield is and was at all times relevant to this Complaint a citizen of the United States and a resident of New Orleans, Louisiana.
16. Plaintiff Reverend Grant Storms is and was at all times relevant to this Complaint a citizen of the United States and a resident of New Orleans, Louisiana.
17. Plaintiff United for Life, Inc., is a non-profit corporation organized and existing under the laws of the State of Louisiana, and is an entity capable of suing and being sued.

IV.

IDENTIFICATION OF DEFENDANTS

18. Defendant Parish of Jefferson, Louisiana is a municipal corporation existing under the

laws and Constitution of the State of Louisiana, and is a corporate entity capable of suing and being sued.

19. Defendant Jefferson Parish Sheriff's Office is a political subdivision of the State of Louisiana, and is capable of suing and being sued. Among other things, the office is charged with the responsibility of enforcing the ordinances of Jefferson Parish as they relate to citizens' speech and expressive activities.
20. Defendant William A. Lazaro, Jr., is and was at all times relevant to this Complaint the director of the Citizens' Affairs Office of Jefferson Parish, Louisiana. Among other things, he is charged with the administration and enforcement the Jefferson Parish Ordinances as they relate to citizens' speech and expressive activities.
21. Defendant Daniel Samrow is and was at all times relevant to this Complaint an officer for the Jefferson Parish Sheriff's Department. Among other things, he is charged with the responsibility of enforcing the Jefferson Parish Ordinances as they relate to citizens' speech and expressive activities.
22. Each defendant is sued in his official capacity, and in his individual and personal capacity.

V.

STATEMENT OF FACTS

Challenged Ordinances

23. The Jefferson Parish Ordinances restricting private speech are contained in three sections of the Code of Ordinances: Chapter 6, Article IV ("Fairs, Circuses and Exhibitions"); Chapter 20, Article V ("Offenses against Public Peace"); Chapter 22, Article V ("Peddlers and Solicitors"); and Chapter 26 ("Public Assemblies"). Relevant excerpts are attached hereto

as Appendix 1, and incorporated herein by reference.

Restrictions on Public Assembly and Speech

24. The Ordinances and policies, which make it a crime to assemble or speak at any “public gatherings” within the unincorporated areas of Jefferson Parish without obtaining a permit 30 days in advance, place unconstitutional restrictions on free speech.
25. The Ordinances attach a range of sanctions for violations of said restrictions, including a fine not exceeding Five Hundred Dollars (\$500) or imprisonment for a term not exceeding six (6) months, or both, as well as civil proceedings in any court of competent jurisdiction. (See Ordinances, §§ 1-10, 1-11.)
26. Chapter 6, Article IV of the Ordinances (§§ 6-51 through 6-61) is contained under the heading “Fairs, Circuses and Exhibitions,” and references in a footnote, as its “authority to regulate circuses,” Louisiana Revised Statutes 4:7 and 47:365.
27. § 6-51 provides definitions for terms used in Article IV, such as “amusement attraction,” “certificate of inspection,” and “fair,” but provides no definition for the terms “exhibition,” “show,” or “public gathering.”
28. § 6-56 states:

It shall be unlawful for any person to conduct fairs, exhibitions, shows, circus performances or other public gatherings within the unincorporated areas of the parish without first securing approval of the parish council.
29. § 6-57 lists requirements for a permit to be issued for a public gathering, including the necessity of the applicant showing proof of a liability insurance policy for participants.
30. § 6-61(a) requires a cash deposit of Two Hundred Fifty Dollars (\$250) plus the sum of one cent (\$0.01) per square foot of ground to be occupied before a permit can be issued to

conduct “any type of exhibition show.”

31. The Ordinances do not define “exhibition show.”
32. § 6-61(c) states that the parish council “*may* exempt from the provisions of this section bona fide churches, schools and charitable organizations.” (Emphasis added.)
33. The Jefferson Parish permit form entitled “Fairs, Exhibitions, Shows, Craft Shows, Circuses, Tents, or Other Public Gatherings” (attached hereto as Appendix 2), states (emphasis in the original):

APPLICATION SHOULD BE RECEIVED BY THE SPECIAL EVENTS OFFICE 30 DAYS PRIOR TO THE EVENT DATE. PROOF OF NON-PROFIT TAX EXEMPT STATUS IS REQUIRED AND MUST BE SUBMITTED WITH THIS APPLICATION. THIS INFORMATION CAN BE OBTAINED FROM THE INTERNAL REVENUE SERVICE. APPLICATION MUST BE COMPLETED IN FULL AND SIGNED BY PERSON APPLYING (OVER 13 YRS. OLD). YOU MUST OBTAIN COUNCIL APPROVAL (COUNCIL RESOLUTION).

34. The permit form requires extensive information from the applicant, including: a description of the “type of event” planned; the name and tax identification number of the sponsoring organization; the specific date, time, and address of the planned public gathering; the “purpose of the event;” whether beverages, food, live music, animals, and/or mechanical amusement rides will be used; whether tents or canopies will be used; and whether the event will be open to the general public.
35. The permit form also requires the applicant to sign a “Hold Harmless and Indemnification of Jefferson Parish” agreement as a prerequisite of any public gathering.
36. Chapter 26 of the Ordinances is contained under the heading “Public Assemblies.” § 26-1 states:

Any group may assemble within the parish by obtaining a permit from the parish council.

37. The Jefferson Parish Council meets every other week, usually no more than twice per month. Meetings are held at alternating locations from the East Bank of the parish to the West Bank, and all meetings begin at 10:00 a.m.
38. The Ordinances and restrictions require that a permit for a public gathering can only be obtained by a resolution of the parish council.
39. A council resolution can only be voted upon at a regularly and duly constituted meeting of the council.
40. Neither the Ordinances nor the permit form indicate whether an appearance and/or presentation by the applicant before the parish council is required, allowed, or recommended.
41. Neither the Ordinances nor the permit form indicate or provide objective standards or guidelines to guide the parish council in their decision whether or not to grant a permit.
42. Neither the Ordinances nor the permit form indicate or provide a time limit within which the parish council must decide whether or not to grant a permit.
43. Neither the Ordinances nor the permit form indicate or provide an opportunity for appeal or prompt judicial review of the parish council's decision to deny a permit.
44. Individuals may violate §§ 6-51 through 6-61 and § 26-1, and be subject to criminal and civil sanctions, by engaging in the following speech activities without obtaining a permit and parish council permission 30 days in advance:
 - a. Gathering more than two persons for a political debate or discussion;
 - b. Picketing in parks and in public streets;
 - c. Joining with a small group on public property to sing hymns or engage in religious worship;

- d. Assembling a small family for a picnic in a public park; and
- e. Meeting with a small group of friends on public property for any purpose.

45. The said Ordinances and restrictions are inherently unconstitutional because they place a prior restraint on free speech, are unconstitutionally vague and overbroad, do not require a prompt decision on permit applications nor an appeal process, and allow for unfettered discretion on the part of parish decision makers and the prohibition of a wide variety of protected speech based upon its content and viewpoint.

Additional Restrictions on Speech: “Noise”

46. Chapter 20, Article V of the Ordinances (§§ 20-101 through 20-102) is contained under the heading “Offenses against Public Peace,” and includes a noise ordinance (§ 20-102).
47. § 20-102(b) provides several definitions for terms used in Article V, including: “*Noise-sensitive area*” (“where a school, hospital, nursing home, church, court, or public library is located”); “*Permit*” (“an authorization received from the parish’s office of carnival and special events or other appropriate permitting agency to conduct a parade, special event, fair, revival, celebration or other group event”); and “*Residential area*” (“an area composed of certain lands and structures having single-family, two-family, or multifamily residential characteristics”).
48. § 20-102 does not provide definitions for the terms “parade,” “special event,” “revival,” “celebration,” “other group event,” or “public park.”
49. § 20-102(c) prohibits “excessive noise” in general, but § 20-102 provides no precise definition of that term.
50. § 20-102(f) provides maximum permissible sound limits, by reference to the American

National Standards Institute Specification for sound level meters (ANSI.4-1971, as amended), in a table ("Table 1") specifying the limits for four land use categories.

51. § 20-102(e) provides exemptions for maximum permissible sound limits for seven categories of person and things, including "[n]oises made by persons having obtained a permit," and "[a]ny noise resulting from activities of a temporary duration, for which a permit has been granted pursuant to this section, and which conforms to the conditions and limits stated thereon."

52. § 20-102(h) provides specific prohibitions against eight categories of things including:

(2) *Radios, televisions, musical instruments and similar devices*

a. The operating or playing of any radio, musical instrument or similar device which produces or reproduces sound on the public right-of-way in such a manner as to be plainly audible to any person other than the operator of the device.

b. The operating or playing of any radio, television, phonograph, musical instrument or similar device which produces or reproduces sound in a motor vehicle or public park in a manner as to be plainly audible at a distance of fifty (50) feet.

c. The operating or playing of any radio, television, phonographs, musical instruments or similar device which produces or reproduces sound in such a manner as to exceed the levels set forth in Table 1 for the land use category.

and

(3) *Loudspeakers and sound amplifiers.*

The using or operating of any loudspeaker, loudspeaker system, sound amplifier or other similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 p.m. and 10:00 a.m. on weekends and holidays, within or adjacent to residential or noise sensitive areas such that the sound therefrom is plainly audible across the real property line of the source; provided, however, that this shall not apply to any public performance, gathering or parade for which a permit has been obtained.

53. Individuals may violate § 20-102 and be subject to criminal and civil sanctions by engaging in the following speech activities without obtaining a permit and parish council permission 30 days in advance:
- a. Playing an acoustical guitar in a public park, public recreational area, or on a public sidewalk;
 - b. Playing a small radio or recorded message on a public sidewalk at a volume level so low that only two persons could hear;
 - c. Playing a small radio at normal volume levels on a picnic blanket or during a pick-up basketball game in a public park or recreational area;
 - d. Using a microphone and small loudspeakers or sound amplifiers to address a crowd of neighbors for a Saturday morning neighborhood beautification project; and
 - e. Using a microphone and small loudspeakers or sound amplifiers for an outdoor worship service or other morning or late evening activity on the grounds of a local church.
54. The said Ordinances and policies are inherently unconstitutional because they place a prior restraint on free speech, are unconstitutionally vague and overbroad, do not require a prompt decision on permit applications nor an appeal process, and allow for unfettered discretion on the part of parish decision makers and the prohibition of a wide variety of protected speech based upon its content and viewpoint.

Additional Restrictions on Speech: "Handbilling"

55. Chapter 22, Article V of the Ordinances (§§ 22-121 through 22-125) is contained under the heading "Peddlers and Solicitors," and includes restrictions against leafleting.
56. Chapter 22 lists as Cross references: "Hawkers and peddlers disturbing the peace, § 20-102(b)(5); occupational license tax: for peddling and hawking, § 35-201."
57. § 20-102(b)(5) of the Ordinances does not exist, and § 35-201 concerns an unrelated subject (*i.e.*, collection of hotel occupancy taxes).
58. § 22-121 provides five definitions for terms used in Article V, including:

Distribute and *distribution* shall mean the giving or circulation of any handbill, written advertisement, or publication. The words shall also mean and include the making of any announcement to the public, whether oral or written, concerning an appeal, assemblage, athletic or sports event, bazaar benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or social gathering, to which the public is invited or requested to make a contribution.

Streets shall mean all public streets, roads, thoroughfares, highways, bridges, alleys, passageways, rights-of-way, medians, curbs and shoulders of the road.

59. § 22-123 states:

No person shall stand, sit or remain next to the travelled [sic] part of any street, for the purpose of distributing or otherwise circulating any handbill, written advertisements or publication to the drivers or passengers of vehicles using the street.

60. The Ordinances do not define “travelled [sic] part of any street,” “handbill,” or what is meant by a vehicle “using the street.”

61. § 22-125 attaches a range of sanctions for violations of said restrictions, including a fine not exceeding One Hundred Dollars (\$100) or imprisonment for a term not exceeding thirty (30) days, or both.

62. Individuals may violate § 22-123 and be subject to criminal sanctions by engaging in the following speech activities while standing on or using a public sidewalk or other public rights-of-way:

- a. Accepting donations for the Salvation Army, the Muscular Dystrophy Association, or any other charitable cause;
- b. Distributing free tickets to a public concert;
- c. Distributing invitations or making a verbal announcement to a church revival service or bake sale;
- d. Making a verbal announcement regarding any public policy or political debate;
- e. Making a campaign speech for public office, or generally encouraging persons to exercise their right to vote; and

f. Allowing children to sell lemonade from a homemade stand.

63. The said Ordinances and polices are inherently unconstitutional because they are unconstitutionally vague and overbroad, and allow for unfettered discretion on the part of parish decision makers and the prohibition of a wide variety of protected speech based upon its content and viewpoint.

Application of the Speech Restrictions to the Plaintiffs

64. The Plaintiffs, Rev. Shanks, Mrs. Benfield, Rev. Storms, and other members of United for Life, Inc., desire to engage in speech on the public ways of Jefferson Parish without prior permission from the Jefferson Parish Council.
65. Plaintiffs have refrained, and continue to refrain, from speaking on the public ways of Jefferson Parish without the required prior permission from the Jefferson Parish Council.
66. Plaintiffs are pro-life advocates opposed to the practice of induced abortion due to their religious and moral beliefs.
67. Plaintiffs regularly travel to the public ways in the area of 3040 Ridgelake Drive— the location of Causeway Medical Suite, a facility in which abortions are performed (hereinafter “Causeway”)— to peaceably express their message that abortion is the killing of a human child, and that alternative choices to abortion are available to women.
68. As part of their ministry and peaceful pro-life advocacy, Plaintiffs offer literature and sidewalk counseling to persons approaching Causeway. Plaintiffs do this in an effort to persuade women not to abort their unborn babies by offering alternatives to abortion, including adoption, advice, and emotional support.
69. In addition to distributing literature and offering sidewalk counseling, Plaintiffs engage in other peaceful expressive activities on the public ways at or near Causeway, including, but not limited to, Christian witnessing, praying, and worshipping their Lord and Savior

Jesus Christ.

70. Other groups and individuals demonstrate against abortion, counsel, or pray at Causeway. These other groups and individuals are not associated with Plaintiffs although they share the common belief that abortion is morally, politically, and/or spiritually wrong.
71. The Pregnancy Testing Center, a crisis pregnancy facility, is located at 3038 Ridgelake Drive, in the building adjacent to Causeway.
72. Pro-life advocates have been educating and counseling both men and women on the public ways adjacent to Causeway since approximately 1990. During this period, Plaintiffs have regularly and consistently engaged in peaceful expressive activities outside Causeway on days the clinic provided abortions to women.
73. Specifically, when Plaintiffs counsel or seek to educate persons entering Causeway, Plaintiffs stand on the public ways in or near the public crosswalk that stretches across the driveway leading into the clinic parking lot.
74. Plaintiffs sometimes approach persons as they walk to the clinic and offer literature describing the abortion procedure and the alternatives available to pregnant women. On occasion, individuals will engage in dialogue with Plaintiffs, and Plaintiffs will then counsel those individuals about the harms and risks of abortion.
75. It is, and has been, the customary practice of Causeway to employ Jefferson Parish Sheriff's Office personnel (hereinafter "contract officers") as security for the clinic. These contract officers often arrive at the clinic in their patrol cars. Contract officers dress in full sheriff uniform, wear official sheriff badges, and carry loaded sidearms.
76. It has been a customary practice of the Sheriff's Office to assign an on-duty supervisor to

monitor the activities of pro-life advocates at Causeway, and to assist contract officers.

77. For the past 15 years, on the Saturday that coincides with the week of January 22nd, Plaintiffs have organized and held a peaceful expressive activity (hereinafter "Memorial Service") on the public ways at or near Causeway, to somberly observe and memorialize their opposition to the 1973 U.S. Supreme Court decision of *Roe v. Wade*.
78. In previous years, the Memorial Service has sometimes been held, with permission, on the private property of the Pregnancy Testing Center.
79. At each annual Memorial Service, including the Memorial Service held on January 24, 2004, the Sheriff's Office has dispatched on-duty, uniformed officers to monitor the activities of Plaintiffs.
80. For the last several years, Defendant Samrow has led the Sheriff's Office on-duty officers at each annual Memorial Service conducted by Plaintiffs.
81. In its fifteen year history, there has never been one arrest, skirmish, or other unlawful activity at the peaceful, orderly Memorial Service.
82. Nevertheless, at each annual Memorial Service from approximately 1990 to 1999, the Sheriff's Office dispatched scores of officers to attend the event in full riot gear, including snipers with rifles on neighboring rooftops.
83. The riot officers were dispatched as a means of intimidating Plaintiffs and other Memorial Service participants.
84. Because the riot officers were unnecessary and unused, the practice ceased in approximately 2000.
85. Still, Defendants, including Defendant Samrow, have engaged in continuing threats and

intimidation of Plaintiffs and other Memorial Service participants over approximately the past four years.

86. Since at least January, 2000, it has been the routine and customary practice of Defendants to prevent and impede Plaintiffs in their use of sound amplification equipment, a small “soapbox” speakers’ platform, and musical instruments on the public ways of Jefferson Parish.
87. Because of Defendants’ actions, Plaintiffs have been very reluctant to, and have refrained from, speaking on the public ways of Jefferson Parish because they fear arrest or citation.

Events Prior to January 24, 2004

88. On December 8, 2003, Rev. Shanks completed and submitted the Jefferson Parish Carnival and Special Events permit application form for the January 24, 2004 Memorial Service. (*See Appendix 2*).
89. Rev. Shanks indicated on the permit form that the purpose of the event was the “observation of Roe v. Wade decision” at the location of 3040 Ridgelake Drive in Metairie. He supplied this information because the permit form required it.
90. Rev. Shanks also checked the box on the permit application form to indicate that “live music” would be played at the Memorial Service.
91. On or about January 15, 2004, Rev. Shanks received a letter from Defendant Lazaro, dated January 13, 2004, in which he advised Rev. Shanks that the application for a “Special Event permit” was still pending. (*See Appendix 3*).
92. The Lazaro letter further stated that the permit would not be granted unless Rev. Shanks produced a notarized affidavit of permission to use the property, or a bona fide lease

agreement, from the owner of 3040 Ridgelake Drive. The letter was copied to Deputy Parish Attorney Louis Gruntz, Carol Champagne, Police Chief John Thevenot, Defendant Samrow, and attorney Ed Golden.

93. Upon his receipt of the Lazaro letter, Rev. Shanks contacted Mr. Lazaro by telephone to clarify and explain that, just like in previous years, the Plaintiffs' planned event would be held on the public property adjacent to the actual municipal address of 3040 Ridgelake Drive, and that participants would not obstruct or block the free and uninterrupted ingress, egress, or regress of any property or business located in the vicinity.
94. The Defendant Parish officials still failed to make a decision on Plaintiffs' Special Event permit application.
95. On January 21, 2004, in a conversation with Rev. Shanks, Defendant Samrow stated that Plaintiffs' expressive activities at or near Defendant Clinic required a permit pursuant to parish ordinances. Without the permit, Defendant Samrow threatened that Plaintiffs would be subject to arrest if they utilized small amplification equipment or a small "soapbox" platform at the Memorial Service.

Defendants were Informed of their Unlawful Conduct

96. On or about January 20, 2004, Plaintiffs sought the assistance of the undersigned counsel, who faxed a six-page letter on January 21, 2004, to Jefferson Parish Attorney Thomas G. Wilkinson.
97. The January 21, 2004, letter placed Defendants on notice of the unconstitutionality of their actions, including the failure to act in timely fashion upon Rev. Shanks' Special Event application, the failure to recognize that peaceable expressive activity on public

property does not require a prior permit, and the fact that a permit should not be required for a small soapbox stage or volume-controlled amplification equipment.

98. On January 22, 2004, Mr. Wilkinson faxed a response letter to Plaintiffs' counsel, wherein he stated that:
- a. Causeway's owners had complained to the Jefferson Parish Sheriff's Office that Rev. Shanks and his groups' gatherings were in violation of the provisions of LSA-R.S. 14:326, but that parish officials determined that said statute should not apply;
 - b. Rev. Shanks' planned January 24, 2004, "march" along the public sidewalks of Jefferson Parish from 901 Beverly Garden Drive to 3032 Ridgelake Drive required no permit;
 - c. Rev. Shanks' planned January 24, 2004, "rally" did require a prior permit pursuant to § 6-51 of the Ordinances;
 - d. Said permit could only be obtained after approval of the parish council;
 - e. Said permit was impossible to obtain since the parish council had met on January 21, 2004, and would not meet again until February 4, 2004; and
 - f. "If Rev. Shanks conducts a 'Rally' without the requisite permit, he does so at his own peril."
99. The Wilkinson letter was copied to Defendants Lazaro and Samrow, as well as Police Chief John Trevenot and attorney Ed Golden.
100. On January 22, 2004, Plaintiffs' counsel faxed a six-page response letter to Mr. Wilkinson explaining in detail why Defendants' interpretation and intended application of the Ordinances was and would be unconstitutional.
101. Mr. Wilkinson responded with a short, faxed letter on January 23, 2004, reiterating his earlier position.

Events of January 24, 2004

102. On the morning of Saturday, January 24, 2004, Plaintiffs and a few members of their group met on the public ways in the 3000 block of Ridgelake Drive.
103. At the time of the Plaintiffs' arrival, the owner of the office building next door to Causeway was in front of his building with Defendant Samrow, and several other uniformed sheriff's officers. One officer put police tape around the owner's building.
104. Plaintiffs approached Defendant Samrow and asked whether he intended to allow them to utilize amplification equipment or a small stand later to elevate the person addressing the assembled crowd.
105. Defendant Samrow responded that if Plaintiffs used amplification, they could not stand still or put any equipment down on public property. Samrow said that his orders were from "the attorney for the Sheriff's office" and from Defendant Lazaro, whom he expected to appear at the location shortly.
106. Defendant Samrow threatened to issue citations and begin making arrests if Plaintiffs placed anything on the area that is the parish right-of-way between the sidewalk and the street.
107. Around 10:00 a.m., the march along the public sidewalks from St. Angela Merici Catholic Church, 901 Beverly Garden Drive, to the 3000 block of Ridgelake Drive proceeded without incident.
108. Between 200-300 people then assembled on the sidewalks near 3040 Ridgelake Drive and on the parish right-of-way across the street. The officers closed off one lane of traffic and allowed some participants to stand in the street.

109. To be heard among the crowd at the Memorial Service, persons who addressed the group used a step stool as a make-shift "soapbox" and a microphone. The sound was amplified by a battery-operated speaker. Due to Defendants' threats, event participants were forced to carry the speaker, rather than place it on the ground.
110. The volume of the speaker remained reasonable at all times, and could only be heard in the immediate vicinity of the crowd.
111. Two other participants played a keyboard and a guitar at certain times during the Memorial Service, but were not allowed to place the keyboard stand upon the ground. Due to Defendants' threats, other event participants were forced to carry the keyboard as it was played.
112. Due to said harassment by Defendants, Plaintiffs and other Memorial Service participants were substantially limited in their ability to speak and express their ideas and messages to the crowd, and were soon forced, upon threat of arrest, to stop their speech entirely.
113. In an effort to accommodate the Defendants' orders, Plaintiffs moved their sound equipment and keyboard from the public right-of-way to a less desirable location, and placed them on a flatbed trailer that was legally parked on the nearby street.
114. As they began their speech activities again, Defendant Samrow made new threats of arrest, and said, "You can't have live music without a permit!"
115. Rev. Shanks said calmly, "I'm in charge here. Just arrest me." To which Defendant Samrow snapped, "No, we're going to arrest everyone!"
116. Due to said threats by Defendants, Plaintiffs and other Memorial Service participants were forced to stop their speech entirely.

117. At all times, Plaintiffs and Memorial Service participants were peaceable and acted in a lawful manner.
118. The Memorial Service continued until approximately 12:00 noon, at which time participants left the area.
119. Ordinances were and have been applied against Plaintiffs in a manner designed and intended to deprive and hinder Plaintiffs' expressive activities.
120. It is the policy, custom, or practice of Defendants to threaten Plaintiffs and other pro-life advocates with citation and arrest for expressive activities occurring within the public rights-of-way near Causeway, as described herein.
121. It is the policy, custom, or practice of Defendants to act pursuant to, and in accordance with, the requests and instructions issued by Causeway, its owners, officers, agents, or employees, in depriving and hindering Plaintiffs' expressive activities.
122. Defendants knew, or should have known, that the Plaintiffs may utilize sound equipment and assemble for peaceable activities on public property, but nevertheless applied the Ordinances in a manner designed to hinder and deter Plaintiffs from speaking and assembling to express their pro-life views.

Defendants' Conduct Chills and Hinders Plaintiffs' Speech

123. The actions of Defendants as set forth above hindered, deterred, and chilled Plaintiffs in the exercise of their First Amendment rights, and their rights to be free from intimidation, harassment, and assault.
124. Defendants have limited Plaintiffs' and other pro-life advocates' access to the sidewalk/crosswalk and have not permitted them to take full advantage of the public

rights-of-way. Such confinement hindered, and continues to hinder, Plaintiffs' ability to effectively communicate with assembled groups, Causeway clientele, and others.

125. Plaintiffs have refrained, and continue to refrain, from taking full advantage of the public rights of way of Jefferson Parish out of fear that they will be arrested or cited for violation of the Ordinances if they do so.
126. Defendants' Ordinances as they pertain to free speech and assembly are so vague that Plaintiffs and other persons of reasonable intelligence cannot ascertain their precise meaning or requirements.
127. Plaintiffs desire to continue to counsel and distribute literature on the public ways in front of or near the Causeway clinic, and to continue to hold their annual Memorial Service in late January of each year, but fear they will be arrested or cited by Defendants if they continue to do so absent preliminary and permanent injunctive relief.
128. Plaintiffs have been made to censor their speech and leafleting on the public ways of Jefferson Parish because they have not obtained permission from the parish council.
129. Plaintiffs are suffering irreparable harm from the conduct and challenged ordinances of Defendants.
130. Unless and until the conduct and challenged policies of Defendants are enjoined, Plaintiff will continue to suffer irreparable harm.

VI.

STATEMENT OF LAW

131. At all times relevant to this Complaint, each and all of the acts alleged herein were attributed to the Defendants, acting under the color, authority and pretense of state law,

statutes, ordinances, regulations, customs, usages, and policies of Jefferson Parish and the State of Louisiana.

132. The unlawful actions of Jefferson Parish Sheriff officers and other Parish officials, as alleged herein, were taken or ratified by final policy makers for the Parish of Jefferson, and thus constitute policies, practices, customs, and usages sufficient to impose municipal liability.
133. Speech is entitled to comprehensive protection under the First Amendment.
134. First Amendment rights of speech and association extend to the public ways of Jefferson Parish.
135. The lack of adequate training of Jefferson Parish Sheriff officers and other Parish officials in the areas of First Amendment rights, and the use and identification of traditional public fora, constituted deliberate indifference to the constitutional rights of Plaintiffs, and was a policy, custom, or practice of the Jefferson Parish sufficient to impose municipal liability.
136. § 6-51, *et seq.*, of the Ordinances regulates “Fairs, Circuses and Exhibitions” and should not have been applied to the quintessential free speech events planned by Plaintiffs.
137. Defendants misapplied the Ordinances in a manner designed and intended to deprive Plaintiffs of rights secured by the First and Fourteenth Amendments to the United States Constitution, and Article I, Sections 2, 3, 7, 8, 9, 12, and 19 of the Louisiana Constitution.
138. The public rights of way in front of or adjacent to the clinic are traditional public fora for purposes of speech and other expressive activities protected by the First and Fourteenth Amendments to the United States Constitution, and Article I, Sections 7, 8, and 9 of the Louisiana Constitution.

139. Use of sound amplification devices is speech protected by the First Amendment, and Article I, Section 7 of the Louisiana Constitution.
140. Leafleting on public rights-of-way is speech protected by the First Amendment, and Article I, Section 7 of the Louisiana Constitution.
141. Plaintiffs' expressive activities on the dates alleged herein at or near the Defendant Clinic were constitutionally protected. Plaintiffs were denied access to the public rights-of-way on the basis of the content of their speech.
142. The above cited sections of Chapter 6, Article IV, Chapter 20, Article V, Chapter 22, Article V, and Chapter 26 of the Ordinances are unconstitutional on their face on grounds that they are substantially vague, overbroad, impermissibly restrict free speech, association, and freedom of the press, act as prior restraints, lack procedural safeguards, violate equal protection, and grant parish officials with unfettered discretion in the restriction of expression.
143. The above cited sections of Chapter 6, Article IV of the Ordinances are unconstitutional on as applied on grounds that they are substantially vague, overbroad, impermissibly restrict free speech and association, act as prior restraints, lack procedural safeguards, violate equal protection, and grant parish officials with unfettered discretion in the restriction of expression.
144. The actions of Defendants as alleged herein demonstrated a reckless or callous disregard for Plaintiffs' constitutional rights.
145. All Defendants are jointly and severally liable to Plaintiffs for damages arising from the unlawful acts alleged herein.
146. At all times relevant herein, Plaintiffs' constitutional rights to engage in peaceful expressive activity in traditional public fora was clearly established.

147. Plaintiffs have suffered, are suffering, and will continue to suffer irreparable injury to their constitutional rights from the threats of arrest and harassment employed by Defendants, absent injunctive relief.
148. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to appropriate relief invalidating the unconstitutional Ordinances.

VII.

FIRST CAUSE OF ACTION
VIOLATION OF THE RIGHT TO FREEDOM OF SPEECH & ASSEMBLY
UNDER THE UNITED STATES CONSTITUTION
AND THE LOUISIANA CONSTITUTION

149. Plaintiffs reallege all matters set forth in the preceding paragraphs and incorporate them herein.
150. The Ordinances and conduct of the Defendants constitute a violation of the First and Fourteenth Amendments of the United States Constitution, by among other things, requiring a thirty day advance approval and permit before allowing assemblies and expressive activities on public property.
151. The Ordinances and conduct of the Defendants constitute a violation of the Article I, Sections 7, 8 and 9 of the Louisiana Constitution, by among other things, requiring a thirty day advance approval and permit before allowing assemblies and expressive activities on public property.
152. Defendants' Ordinances constitute an impermissible viewpoint-based and content-based restriction of constitutionally protected expression.
153. The Ordinances vest unfettered discretion in the Defendants to restrict constitutionally protected expression.
154. The Ordinances and the actions of Defendants are prior restraints and restrictions on speech in areas that are commonly considered traditional public fora.
155. The policies are not content-neutral time, place, and manner restrictions on expression.

Further, they are not narrowly tailored, do not serve significant government interests, and do not leave open ample alternative channels of communication as the Constitution requires.

- 156. Defendants' Ordinances are vague and overbroad.
- 157. The policies restrict citizens' freedom of association and are not supported by a narrowly tailored compelling state interest.
- 158. The policies fail to provide adequate procedures for administrative and judicial appeal and redress of denials to engage in expression.

WHEREFORE Plaintiffs respectfully pray that the Court grant the relief set forth hereinafter in the prayer for relief.

VIII.

SECOND CAUSE OF ACTION
VIOLATION OF THE RIGHT TO FREEDOM OF THE PRESS
UNDER THE UNITED STATES CONSTITUTION
AND THE LOUISIANA CONSTITUTION

- 159. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.
- 160. The distribution of written expression is a classic example of the exercise of the right to freedom of the press.
- 161. No compelling government interest exists to justify the restrictions imposed on such an exercise of the freedom of the press by the Defendants' Ordinances, nor is the restriction the least restrictive means available to serve any permissible government purpose intended to be served by Defendants' policies dealing with literature distribution.
- 162. Defendants' Ordinances on their face and as applied impose a system of prior restraints on the publication and/or circulation of Plaintiff's printed and oral expression. This system of prior restraints is unconstitutional under the First and Fourteenth Amendments of the United States Constitution.
- 163. Defendants' Ordinances on their face and as applied impose a system of prior restraints on

the publication and/or circulation of Plaintiff's printed and oral expression. This system of prior restraints is unconstitutional under Article I, Section 7 of the Louisiana Constitution.

164. By their actions, Defendants have violated Plaintiffs' rights to distribute literature expressing their religious and political views.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

IX.
THIRD CAUSE OF ACTION
VIOLATION OF THE RIGHT TO DUE PROCESS
UNDER THE UNITED STATES CONSTITUTION
AND THE LOUISIANA CONSTITUTION

165. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.
166. The Ordinances and conduct of the Defendants constitute a violation of the First and Fourteenth Amendments of the United States Constitution.
167. The Ordinances and conduct of the Defendants constitute a violation of Article I, Section 2 of the Louisiana Constitution.
168. Defendants' Ordinances are vague and overbroad.
169. Defendants' policies prohibiting public gatherings, group assemblies, literature distribution, and other forms of expression fail to adequately advise, notify, or inform citizens threatened with criminal and civil sanctions for violation of these provisions.
170. Defendants' Ordinances do not provide for prompt review and appeal of their permit scheme and related restrictions on free speech and expression.
171. Defendants' policies restricting speech fail to adequately advise citizens subject to criminal and civil sanctions under them of the obligations they create, and they are unconstitutionally vague, on their face, in violation of the due process guarantee of the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully prays that the Court grant the relief set forth hereinafter in

the prayer for relief.

X.

FOURTH CAUSE OF ACTION
VIOLATION OF THE EQUAL PROTECTION CLAUSE
UNDER THE UNITED STATES CONSTITUTION
AND THE LOUISIANA CONSTITUTION

172. Plaintiff realleges all matters set forth in the preceding paragraphs and incorporates them herein.
173. Defendants' Ordinances, on their face, treat Plaintiffs and other citizens differently from other similarly situated individuals and groups on the basis of the content of their speech, viewpoint, and the size of their groups.
174. Defendants do not have a compelling state interest for such disparate treatment of Plaintiffs' expression.
175. Therefore, said conduct of Defendants comprises an unconstitutional and continuing interference and infringement upon the rights of Plaintiffs and other citizen groups and individuals to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.
176. Said conduct of Defendants further comprises an unconstitutional and continuing interference and infringement upon the rights of Plaintiffs and other citizen groups and individuals to equal protection of the laws as guaranteed by Article I, Section 3 of the Louisiana Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court:

- a. Assume jurisdiction over this action;

- b. Declare that the public road and sidewalk rights of way adjacent to 3040 Ridgelake Avenue, Metairie, Louisiana are traditional public fora for speech;
- c. Declare that the Code of Ordinances, Jefferson Parish, Louisiana cannot be used to exclude Plaintiffs from accessing public rights-of-way;
- d. Declare that Plaintiffs possess a First Amendment right to use sound amplification devices subject only to reasonable time, place, and manner regulation;
- e. Declare that Sections 6-51, 6-56, 6-57, and 6-61 of the Code of Ordinances, Jefferson Parish, Louisiana are unconstitutional on their face and as applied to Plaintiffs;
- f. Declare that Section 26-1 of the Code of Ordinances, Jefferson Parish, Louisiana is unconstitutional on its face and as applied to Plaintiffs;
- g. Declare that Section 20-102 of the Code of Ordinances, Jefferson Parish, Louisiana is unconstitutional on its face and as applied to Plaintiffs;
- h. Declare that Sections 22-122 and 22-123 of the Code of Ordinances, Jefferson Parish, Louisiana are unconstitutional on their face and as applied to Plaintiffs;
- i. Declare that the actions of Defendants on the dates herein set forth for the reasons herein set forth violated Plaintiffs' constitutional rights;
- j. Enter preliminary and permanent injunctions enjoining Defendants from using the Code of Ordinances, Jefferson Parish, Louisiana governing "fairs, circuses and exhibitions" to hinder expressive activities occurring in public rights of way;
- k. Enter preliminary and permanent injunctions enjoining Defendants from retaliating against Plaintiffs for the peaceful exercise of their constitutional rights;
- l. Enter preliminary and permanent injunctions enjoining the enforcement of

Sections 6-51, 6-56, 6-57, 6-61, 20-102, 22-121, 22-123, and 26-1 of the Code of Ordinances, Jefferson Parish, Louisiana;

m. Award Plaintiffs nominal damages against the Parish of Jefferson, Louisiana for the violation of their constitutional rights;

n. Award Plaintiffs nominal, compensatory, and punitive damages against Defendants Lazaro and Samrow for their willful and deliberate violation of Plaintiffs' clearly established constitutional rights;

o. Award Plaintiffs their costs of litigation, including reasonable attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988; and

p. Grant such other and further relief as this Court deems necessary and proper.

Respectfully submitted this 14th day of April, 2004.

Attorneys for Plaintiffs,

ALLIANCE DEFENSE FUND LAW CENTER

By: 
J. Michael Johnson

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*Motion for Admission *Pro Hac Vice* to be submitted

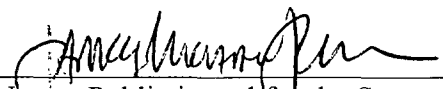
VERIFICATION

STATE OF LOUISIANA
PARISH OF JEFFERSON

On this day 13th day of April, 2004, REVEREND WILLIAM SHANKS appeared before me, the undersigned notary public. After I administered an oath to him, upon his oath, under penalty of perjury and pursuant to 28 U.S.C. § 1746, he said that he has read the Verified Complaint and that the facts stated in it are within his personal knowledge and are true and correct.


REVEREND WILLIAM SHANKS

SWORN TO and SUBSCRIBED before me by Reverend William Shanks on April 13, 2004.


Notary Public in and for the State of Louisiana

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

REVEREND WILLIAM SHANKS,
KATHLEEN BENFIELD, REVEREND
GRANT STORMS, and UNITED FOR LIFE,
INC.,

Plaintiffs,

CIV NO. _____

v.

PARISH OF JEFFERSON, LOUISIANA,
JEFFERSON PARISH SHERIFF'S OFFICE,
WILLIAM A. LAZARO, JR., individually and
in his official capacity, and OFFICER
DANIEL SAMROW, individually and in his
official capacity,

Defendants.

APPENDIX TO VERIFIED COMPLAINT

TO THE HONORABLE COURT:

Pursuant to local rules, Plaintiffs submit this Appendix to their Verified Complaint.

Respectfully submitted this 14th day of April, 2004.

Attorneys for Plaintiffs,

ALLIANCE DEFENSE FUND LAW CENTER

By: 
J. Michael Johnson

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*Motion for Admission *Pro Hac Vice* to be submitted

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APPENDIX 1

Sec. 6-51. Definitions.

As used in this article, unless otherwise indicated:

Amusement attraction means any building or structure around, over, or through which people may move or walk, without the aid of any moving device integral to the building or structure, that provides amusement, pleasure, thrills or excitement. "Amusement attraction" does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion or the arts.

Amusement ride means any mechanized device or combination of devices which carries passengers along, around or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

Certificate of inspection means a certificate issued by the department of inspection and code enforcement, subsequent to an inspection by the department.

Charitable organization means a nonprofit veterans', eleemosynary, benevolent, educational, religious, fraternal or civic and service association or corporation domiciled in this state which has qualified with the Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code.

Department means the department of citizen's service.

Fair means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement attractions or rides.

Operator means a person, organization or association or the agent of a person, organization or association which owns or controls or has the duty to control the operation of an amusement or ride. "Operator" does not include a person, organization or association which does not own or control an amusement attraction or ride but which permits or allows the operation of an amusement attraction or ride on the premises of or in the name of the person, organization or association.

(Ord. No. 17542, § 1, 7-13-88; Ord. No. 20843, § 1, 12-1-99)

Secs. 6-52--6-55. Reserved.

Editor's note: Ord. No. 20843, §§ 2--5, adopted Dec. 1, 1999, repealed §§ 6-52--6-55, which pertained to inspection of amusement attraction or ride required; notice of violation of amusement attraction standard; and exemptions. See the Code Comparative Table.

Sec. 6-56. Permit required.

It shall be unlawful for any person to conduct fairs, exhibitions, shows, circus performances or other public gatherings within the unincorporated areas of the parish without first securing approval of the parish council.

(Ord. No. 17542, § 5, 7-13-88)

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Sec. 6-57. Requirements for permit.

No person shall conduct a fair or other public gathering without first showing proof of insurance against liability for injury suffered by persons attending the fair or gathering. In addition, the operator of amusement attractions or rides for a fair must show proof of insurance from an insurance company with an A. M. Best rating of B+ or better in an amount of not less than one million dollars (\$1,000,000.00) insuring the operator against liability for injury suffered by persons riding the amusement attractions or rides. The grounds on which any fair or other public gathering is to be held shall be subject to inspection by the department.

(Ord. No. 17542, § 6, 7-13-88)

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Sec. 6-61. Cash deposit prerequisite to issuance.

(a) Prior to the obtaining of a permit from the parish council to conduct a fair, exhibition show, circus performance or any type of exhibition show, the person desiring to conduct such activity shall first make a cash deposit of two hundred fifty dollars (\$250.00) plus the sum of one cent (\$0.01) per square foot of ground occupied by such activity with the department to ensure that all trash, debris and other matter accumulated on the premises and its surroundings where the activity is conducted is removed therefrom within forty-eight (48) hours of the conclusion of the conduct of the activity.

(b) Upon completion of the conduct of the fair, exhibition show, circus performance or any type of exhibition show, the department shall make an inspection of the area and its surroundings wherein the aforesaid activity was conducted and if it is determined that the area and its surroundings have been properly cleaned of all trash, debris and other matter, the deposit required by subsection (a) above shall be refunded to the permittee. If the area and its surroundings have not been properly cleaned within forty-eight (48) hours after written notice has been given to the permittee, the department shall expend whatever funds are necessary from the deposit made by the permittee to have the area and its surroundings cleaned, with the balance, if any, being refunded to the permittee.

(c) The council may exempt from the provisions of this section bona fide churches, schools and charitable organizations.

(Ord. No. 17542, § 10, 7-13-88)

Secs. 6-62--6-64. Reserved.

Sec. 20-102. Noise.

(a) *Scope.* The provisions of this section shall apply to the control of all sound originating within geographical limits of the parish and outside the parish limits, within all territory to which the jurisdiction of the parish extends.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply, provided, however, that all terminology used herein and not defined shall be in conformance with applicable publications of the American National Standards Institute (ANSI):

A-weighted sound pressure level means the sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is DB(A) or dB(A).

Alarm means any fire, burglary, motor vehicle or civil defense alarm, whistle or similar stationary emergency signaling device.

Commercial area means a district composed of certain lands and structures used primarily to provide for the retailing of goods and the furnishing of selected services.

Construction means any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or of public or private rights-of-way, structures, utilities, or similar property.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency vehicle means a motor vehicle belonging to a fire district or volunteer fire company or certified private vehicle belonging to a volunteer fireman, or fire fighting association, partnership or corporation, an ambulance, a motor vehicle belonging to private security agency or a motor vehicle belonging to federal, state, parish or municipal law enforcement agency; provided said vehicles are in use as an emergency vehicle by one authorized to use said vehicle for that purpose.

Emergency work means any work for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Holiday means New Year's Eve, New Year's Day, Mardi Gras, Good Friday, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, or Christmas Day.

Industrial area means a district intended for light manufacturing, processing, storage and warehousing, wholesaling and distribution.

Land use category means the classification of an area, such as single-family residential, manufactured home, two-family residential, townhouse, multiple-family residential, general office, medical service, business core, neighborhood commercial, general commercial, industrial, and special industrial.

Motor vehicle means a two (2) or more wheeled vehicle, or machine, propelled or drawn by mechanical power and used on the public roads and highways in the transportation of passengers or property; or any combination thereof, which is required to be licensed, but does not include any vehicle, locomotive, or car operated exclusively on rail or rails.

Multifamily dwelling means a building designed for or occupied by five (5) or more families.

Noise-sensitive area means an area where a school, hospital, nursing home, church, court, or public library is located.

Permit means an authorization received from the parish's office of carnival and special events or other appropriate permitting agency to conduct a parade, special event, fair, revival, celebration or other group event.

Person means any individual, association, partnership, corporation, and includes any officer, employee, department, agency, or instrumentality of the United States.

Powered model vehicle means any self-propelled airborne, waterborne, or landborne plane, vessel, or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car, or rocket.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space means any real property or structure thereon owned by a governmental entity and normally accessible to the public, including, but not limited to, parks, and other recreational areas.

Real property line means a line along the surface, and its vertical plane extension, which separates the real property owned, rented, or leased by one (1) person from that owned, rented, or leased by another person, excluding intra-building real property division.

Residential area means an area composed of certain lands and structures having single-family, two-family, or multifamily residential characteristics.

Sound level means the A-weighted sound pressure level obtained by use of a sound level meter as specified in American National Standards Institute Specification for sound level meters (ANSI.4-1971, as amended).

(c) *Excessive noise prohibited generally.* No person shall make, continue, or cause to be made or continued any loud unnecessary or excessive noise which unreasonably interferes with the comfort and repose of others within the jurisdiction of the parish.

(d) *Enforcement responsibility.* The Jefferson Parish Sheriff's Office shall be responsible for the enforcement of the provisions of this section.

(e) *Cooperation of parish departments.* All parish departments shall, to the fullest extent consistent with their authority, carry out their programs in such a manner as to further the policy of this section.

(f) *Maximum permissible sound limits.* It shall be unlawful to make, cause or allow the making of any noise or sound which violates the provisions of this section.

- (1) No person shall operate or cause to be operated any source from any location in such a manner as to create a sound level which exceeds the limits set forth in Table 1 for the receiving land use category more than ten (10) percent of any measurement period, which period shall not be less than ten (10) minutes, when measured at or beyond the property boundary of the land use category from which the sound emanates, provided, however, that in the case of multifamily dwelling land use category, the sound level shall be measured within an adjacent intra-building dwelling.
- (2) For any source of sound, the sound level shall not exceed the maximum permissible sound level limit set forth in Table 1 by fifteen (15) dB(A) for all land use categories.
- (3) Sound level measurement shall be made with a sound level meter using the A-weighting scale in accordance with the standards promulgated by the American National Standards Institute.

Table 1
Maximum Permissible Sound Levels By Receiving Land Use Category

TABLE INSET:

Land Use Category	Time	Sound Level Limit (dB(A))
Residential, noise-sensitive area, public space	7 00 a m --9 59 p m.	60
	10 00 p m --6 59 a m	55
Multifamily dwelling	7 00 a m --9 59 p m	50
	10:00 p.m.--6:59 a.m.	45
Commercial, convention	7:00 a.m --9:59 p.m.	65
	10 00 p m --6 59 a m	60
Industrial	At all times	75

- (g) *Exemptions.* The following are exempt from sound level limits of Table 1:
- (1) Domestic power tools, lawn movers and agricultural equipment, when operated with a muffler, between the hours of 7:00 a.m. to 9:00 p.m. on weekdays and Saturdays and 8:00 a.m. to 9:00 p.m. on Sundays and holidays.
 - (2) Noises resulting from any authorized emergency vehicles when responding to an emergency.
 - (3) Noises made by persons having obtained a permit
 - (4) Any noise resulting from activities of a temporary duration, for which a permit has been granted pursuant to this section, and which conforms to the conditions and limits stated thereon.
 - (5) Noises from church bells and chimes.
 - (6) Noises from construction activity are exempt from Table 1 except that the industrial sound level limit shall apply in all

land use categories.

(7) Collection of garbage, refuse, or recyclables by the parish and/or its contractors.

(h) *Specific prohibitions.* In addition to the general prohibitions set out above, the following specific acts are declared to be in violation of this section:

(1) *Horns, signaling devices.* The sounding of any horn or signaling device on any motor vehicle on any street or public place in the parish continuously and/or incessantly for a period in excess of sixty (60) seconds, except as a danger warning.

(2) *Radios, televisions, musical instruments and similar devices.*

a. The operating or playing of any radio, musical instrument or similar device which produces or reproduces sound on the public right-of-way in such a manner as to be plainly audible to any person other than the operator of the device.

b. The operating or playing of any radio, television, phonograph, musical instrument or similar device which produces or reproduces sound in a motor vehicle or public park in a manner as to be plainly audible at a distance of fifty (50) feet.

c. The operating or playing of any radio, television, phonographs, musical instruments or similar device which produces or reproduces sound in such a manner as to exceed the levels set forth in Table 1 for the land use category.

(3) *Loudspeakers and sound amplifiers.* The using or operating of any loudspeaker, loudspeaker system, sound amplifier or other similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, and 10:00 pm.m and 10:00 a.m. on weekends and holidays, within or adjacent to residential or noise sensitive areas such that the sound therefrom is plainly audible across the real property line of the source; provided, however, that this shall not apply to any public performance, gathering or parade for which a permit has been obtained.

(4) *Street sales.* The offering for sale by shouting or outcry within any residential or noise-sensitive area except by permit issued by the parish if the shouting or outcry exceeds the maximum permissible sound levels shown in Table 1

(5) *Animals.* The owning, possessing, or harboring of any animal which frequently, or for continued duration, howls, barks, squawks, or makes other sounds which create excessive and unnecessary noise across a residential or commercial real property line or within a noise sensitive area. For the purpose of this section, "barking dog" shall mean a dog that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten (10) minutes, or barks intermittently for one-half (1/2) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property; provided, however, that the dog shall not be deemed a "barking dog" if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon property in or upon which the dog is situated.

(6) *Construction and demolition.* The operating of any equipment used in construction work within one hundred sixty-five (165) feet of any residential or noise-sensitive area between the hours of 9:00 p.m. to 7:00 a.m. on weekdays and Saturdays and 9:00 p.m. to 8:00 a.m. on Sundays and holidays, except for emergency work.

(7) *Powered model vehicles.* The operating of, or permitting the operating of, powered model vehicles:

a. Between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturdays and 9:00 p.m. to 8:00 a.m. on Sundays and holidays.

b. In such a manner as to exceed the levels set for public space land use, measured at a distance of not closer than one hundred (100) feet from the operator.

(8) *Emergency signaling devices:*

a. Except in cases of an emergency, the intentional sounding of any alarm between the hours of 10.00 p m. and 7:00 a.m.

b. The testing of any alarm for a period in excess of sixty (60) seconds at any time.

c. The testing of a complete emergency signaling system, including the signaling device and the personnel response to the signaling device, more than once in each calendar month and the sounding of said emergency signaling system for a period in excess of fifteen (15) minutes.

(i) *Motor vehicles.* No person shall operate or cause to be operated any motor vehicle, or motorcycle not equipped with a

muffler in good working order and in constant operation. No person shall remove or render inoperative or cause to be removed or rendered inoperative, any muffler or sound-dissipative device on a motor vehicle or motorcycle other than for the purpose of maintenance, repair or replacement. In addition, subject to the exemptions provided in subsection (g) herein, no person shall operate or play, or permit the operation or playing of, any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance at a distance of fifty (50) feet from such radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device when it is played or operated in or on a motor vehicle that is on any public right-of-way or in any public space. A person who is convicted of a violation of this subsection shall be punished by a fine not less than fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense and two hundred fifty dollars (\$250.00) for the third and all subsequent offenses.

(j) *Truck deliveries; loading and unloading.* It shall be unlawful to load or unload a delivery truck between the hours of 10:00 p.m. and 7:00 a.m. within three hundred (300) feet of a residential unit, noise-sensitive area, or public space if the sound level limit at the boundary of these areas exceeds the sound level limit set forth in section 20-102(f). It shall also be unlawful to operate a refrigeration unit on any truck within three hundred (300) feet of any residential unit within the parish during said time period.

(k) *Bulk waste containers.* It shall be unlawful to load or unload a bulk waste container (bulk containers normally used with mechanical collection equipment; dumpster) between the hours of 10:00 p.m. and 7:00 a.m. within three hundred (300) feet of a residential, noise-sensitive area, or public space if the sound level limit at the boundary of these areas exceeds the sound level limit set forth in section 20-102(f).

(l) *Penalties.* Any person who violates any provision of this section shall be punished as set forth in section 1-10 of this Code.

(Code 1961, §§ 12-12.1, 12-25; Ord. No. 19170, § 1, 9-7-94; Ord. No. 20983, § 1, 6-14-00; Ord. No. 21730, § 1, 12-11-02)

Cross references: Railroad whistles, horns, etc., § 28-9.

Secs. 20-103--20-118. Reserved.

Sec. 22-121. Definitions.

The following definitions shall govern in the use and interpretation of this article unless the context clearly indicates otherwise:

Contributions shall mean and include the words alms, food, clothing, money, subscription, property or anything of value by donation or under the guise of a loan.

Distribute and *distribution* shall mean the giving or circulation of any handbill, written advertisement, or publication. The words shall also mean and include the making of any announcement to the public, whether oral or written, concerning an appeal, assemblage, athletic or sports event, bazaar benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or social gathering, to which the public is invited or requested to make a contribution.

Person shall mean any individual, firm, partnership, corporation, company, association, joint venture, church, religious sect, religious denomination, school, society, organization, or league, and includes any employee, agent, member, trustee, receiver, or other similar representative thereof.

Solicit and *solicitation* shall mean the selling [of] any item, property, article or anything of value or the request, directly or indirectly, for contributions or money, credit, property, financial assistance, employment, business or anything of value, from the occupant of any vehicle on any street. The words shall also mean and include any method of request or selling, whether oral or written

Streets shall mean all public streets, roads, thoroughfares, highways, bridges, alleys, passageways, rights-of-way, medians, curbs and shoulders of the road.

(Ord. No. 19036, § 1, 4-6-94)

Sec. 22-123. Distribution prohibited.

No person shall stand, sit or remain next to the travelled part of any street, for the purpose of distributing or otherwise circulating any handbill, written advertisements or publication to the drivers or passengers of vehicles using the street.

(Ord. No. 19036, § 1, 4-6-94)

Sec. 26-1. Permit required.

Any group may assemble within the parish by obtaining a permit from the parish council.

(Code 1961, § 12-51)

APPENDIX 2



JEFFERSON PARISH LOUISIANA

CARNIVAL AND SPECIAL EVENTS

TIM P. COLLON
PARISH PRESIDENT

FAIRS, EXHIBITIONS, SHOWS, CRAFT SHOWS, CIRCUSES, TENTS, OR OTHER PUBLIC GATHERINGS

HENRY R. TRAPAN
DIRECTOR

APPLICATION SHOULD BE RECEIVED BY THE SPECIAL EVENTS OFFICE 30 DAYS PRIOR TO EVENT DATE. PROOF OF NON-PROFIT
TAX EXEMPT STATUS IS REQUIRED AND MUST BE SUBMITTED WITH THIS APPLICATION. THIS INFORMATION CAN BE OBTAINED
FROM THE INTERNAL REVENUE SERVICE. APPLICATION MUST BE COMPLETED IN FULL AND SIGNED BY PERSON APPLYING
(YOU ARE 18 YRS. OLD). YOU MUST OBTAIN COUNCIL APPROVAL (COUNCIL RESOLUTION)

(PLEASE PRINT OR TYPE - ONLY LEGIBLE PRINT OR TYPE WILL BE ACCEPTED)

DEC 2003

Received

J.P.
Carnival

TYPE OF EVENT Rally TODAY'S DATE 12/08/03
 YOUR NAME Rev. Bill Shanks
 YOUR FULL ADDRESS #7 Pats Place Metairie LA
 DAY PHONE 504-832-3167 NIGHT PHONE _____
 ORGANIZATION United for Life PHONE _____
 ORGANIZATION'S FULL ADDRESS _____
 ORGANIZATION'S INSURANCE CO. _____ PHONE _____
 YOUR POSITION IN ORGANIZATION Director
 NON-PROFIT ☒ FEDERAL I.D. # (501C) _____ PROFIT _____ TAX I.D. # _____
 EVENT DATE 01/24/04 EVENT DAY Saturday START TIME 8:30 a.m. END TIME 12:30 p.m.
 EVENT DATE _____ EVENT DAY _____ START TIME _____ END TIME _____
 EVENT DATE _____ EVENT DAY _____ START TIME _____ END TIME _____
 EVENT DATE _____ EVENT DAY _____ START TIME _____ END TIME _____
 DATES FOR BEER AND/OR ALCOHOL BEVERAGES ON THE PREMISES: _____
 (MUST INCLUDE DELIVERY DATE AND PICKUP DATE IF HAVING A BEER TRUCK AND/OR BEER KEGS)
 ADDRESS OF EVENT 3040 Ridgelake Metairie
 PURPOSE OF EVENT observation of Roe v Wade decision
 NAME _____ PHONE _____
 (PROMOTIONAL COMPANY FOR AMUSEMENT RIDES, CIRCUS OR FAIR)
 ADDRESS _____ PHONE _____
 (K) ITEMS USED OR SOLD AT EVENT:
 BEER WILL BE SERVED _____ BEER WILL BE SOLD _____
 LIQUOR WILL BE SERVED _____ LIQUOR WILL BE SOLD _____
 BEVERAGES _____ FOOD _____ LIVE MUSIC ☒ ANDIALES _____ # OF MECHANICAL AMUSEMENT RIDES _____
 # OF CRAFT BOOTHS _____ # OF CANOPIES _____ # OF TENTS (41' OR LARGER) _____ # OF TENTS (LESS THAN 41') _____

TENT: STRUCTURE ENCLOSED ON MORE THAN TWO (2) SIDES
 CANOPY: STRUCTURE OPENED ON ALL SIDES, LESS THAN 41 FEET

PROCEEDS FROM THIS SPECIAL EVENT WILL GO TO _____
 WILL THIS EVENT BE OPEN TO THE GENERAL PUBLIC? YES ☒ NO _____
 THERE IS A FEE FOR DETAIL OFFICER(S). WOULD YOU WANT AN OFFICER(S) IF AVAILABLE? YES _____ NO _____

HOLD HARMLESS AND INDEMNIFICATION OF JEFFERSON PARISH
 I, Bill Shanks, REPRESENTATIVE OF United for Life
 DO HEREBY AGREE TO SAVE AND HOLD HARMLESS AND INDEMNIFY THE PARISH OF JEFFERSON AND/OR ITS
 DEPARTMENTS AND/OR ITS EMPLOYEES, FROM ANY AND ALL LIABILITY, AND ANY CLAIM, LOSSES, DAMAGES,
 COSTS, INCLUDING ATTORNEY FEES, SUITS AND JUDGMENTS ON THE ACCOUNT OF INJURIES OR PROPERTY
 DAMAGE RESULTING FROM ACTIVITIES RELATED TO THE EVENT.

SIGNATURE OF APPLICANT

SHERIFF'S OFFICE - DO NOT WRITE BELOW THIS LINE
 J.P.S.O. - PUBLIC ASSIGNMENT - CAPTAIN GILLIS J. ADAMS III (349-7434)

RECEIVED BY _____ DATE _____

revised 09/02

APPENDIX 3



JEFFERSON PARISH
LOUISIANA
CITIZENS' AFFAIRS

AARON F. BROUSSARD
PARISH PRESIDENT

January 13, 2004

WILLIAM A. LAZARO, JR.
DIRECTOR

Rev. Bill Shanks
#7 Par's Place
Metairie, LA 70001

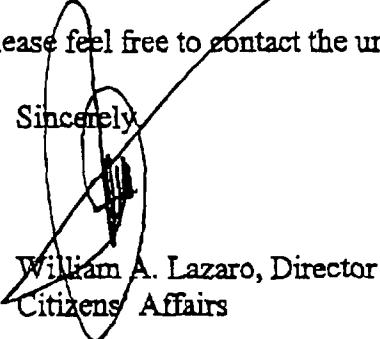
Dear Rev. Shanks,

Please be advised that your application for a Special Event permit to conduct a rally with live music at 3040 Ridgelake Drive, Metairie, Louisiana is still pending.

In order to obtain the permit, you must furnish this office with either a notarized affidavit from the owner granting permission to use the property or a bona fide lease agreement from the owner of the property at 3040 Ridgelake Drive, Metairie, Louisiana.

If you have any questions, please feel free to contact the undersigned.

Sincerely,


William A. Lazaro, Director
Citizens Affairs

WAL/ccm

cc Louis Gruntz, Parish Attorney
Carol Champagne

Faxed cc: Chief John Thevenot
Capt. Danny Samrow