KNOW YOUR RIGHTS
Peaceful Protest and Counter Protest in Charlottesville, VA

Disclaimer: This resource is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. Please note that this resource is not exhaustive. Situations or inquiries may arise that are not answered below.

Do You Have a Constitutional Right to Peacefully Protest or Counter Protest?

- You have a First Amendment right to free speech and peaceful assembly.
- Generally, sidewalks, parks, and other public places may be used for a peaceful protest, provided your group has obtained any required permit.
- The First Amendment does not protect speech that threatens; intends to cause others to violate laws; or provokes a person to violence.
- The First Amendment does not protect civil disobedience, which is considered peaceful but unlawful activity. Such activity may lead to arrest.

Where Can I Protest or Demonstrate?

- Depending on where you intend to conduct a peaceful protest (land owned by federal, state, or local government), various restrictions may apply, e.g., Charlottesville regulates activity conducted on public property, including city parks, sidewalks, roadways, and the Downtown Mall. Also, you are never allowed to protest on private property without the landowner’s permission.
- In general, your exercise of First Amendment rights cannot disrupt or impede others’ use of the same public space for its usual purpose, i.e., demonstrators may not block pedestrian or vehicular traffic on sidewalks and streets, or prevent entry or exit from buildings.

Do I Have the Right to Record During a Protest or Counter Protest?

- You have the right to take photographs and video during a protest of demonstration, including recordings of law enforcement activity, as long as you do not interfere with police activity or their operations. Police officers cannot confiscate or order you to delete your recordings, phone, camera, or other equipment without a warrant.

What Rules Apply When Conducting a Lawful, Peaceful Protest or Counter Protest in Charlottesville?

- In Charlottesville, if an organizer expects 50 or more demonstrators to protest, a permit application must be submitted at least 5 days in advance. Protests occurring at certain locations require more advanced notice, e.g., demonstrations in the Downtown Mall or within a city park require a permit application 10 days prior. (Charlottesville Special Events Regs. § 3.3.2).
- Protests disrupting the flow of traffic or pedestrian travel require a permit. In general, Charlottesville prohibits activity that blocks access to building entrances, driveways, or otherwise obstructs pedestrian traffic by occupying more than half the width of the sidewalk. (Charlottesville Code § 28-30).
- Unless authorized by a permit, demonstrations in city parks may not occur at times during which the park is closed to the public. Remaining in city parks beyond the authorized times is a Class 3 misdemeanor. (Charlottesville Code § 18-1).
• Megaphones and other noise devices are subject to various rules, including decibel level and time period restrictions depending on the location. The city may also limit sound amplification equipment so that it does not unreasonably interfere with another demonstration. (Charlottesville Code § 16-1—16-12 and Charlottesville Special Events Regs. § 3.5.7).

• Hand-carried signs are generally allowed regardless of size. However, signs may not be affixed, leaned against, or set down on city property, including fences, lamp posts, and other structures. (Charlottesville Special Events Regs. § 3.5.10(e)).

• Demonstrators may not carry concealed weapons, including guns. Violations for carrying a concealed weapon include misdemeanor charges. (Charlottesville Code § 33-5).

• Igniting or maintaining an open fire on public or private property, except those contained in approved grills for food preparation or approved fireplaces, is prohibited unless advanced approval is sought. (Charlottesville Code § 12-32).

**Limits on the Government’s Obligation to Protect Public Safety**

• Law enforcement officials are sworn to preserve the peace and protect the general public. Law enforcement must employ crowd control measures to the extent appropriate and necessary to ensure safety for all -- protestors, counter-protestors, spectators, and passers-by.

• Law enforcement may not interfere with a lawful protest but may use blockades to restrain a crowd from engaging in illegal activity.

• Generally, law enforcement may only require you to provide ID if there is a reasonable suspicion that you are involved in criminal conduct.

• You may only be detained if law enforcement reasonably suspects you are involved in criminal activity.

• If there is a reasonable suspicion that you have a weapon, a law enforcement officer may conduct a pat down but not a full search.

• A crowd may be lawfully ordered to disperse if there is a substantial risk of violence or disturbance of the peace, e.g. blocking a highway.

**De-Escalating Protester-Police Encounters**

• Keep calm. Make clear your intent to be non-violent.

• Open and maintain lines of communication and negotiation between protesters and law enforcement.

• Follow law enforcement orders to disperse if you seek to avoid arrest.

• Memorize and share the phone numbers you may need to call if you need help, or are arrested or detained.

• You have the right to leave the protest location if you are not under arrest. Ask if you are free to leave; if you are, walk away; if you are not, politely ask why.

• You have the right to remain silent and cannot be arrested for refusing to answer questions by law enforcement. Statements that you do make can be used against you. If you wish to remain silent, say so out loud.

• You do not have to give law enforcement your name or show identification unless you are suspected of criminal activity.

• Do not give false information to law enforcement. Doing so is a crime and can be used against you in later proceedings.

• In Charlottesville, failure or refusal to assist an officer in the discharge of his or her duty, when requested to do so, is a Class 2 misdemeanor, punishable by not more than $1,000 and 6 months in jail. (Charlottesville Code § 20-9). While you retain your constitutional rights to speak, assemble, and remain silent, ignoring an officer’s request to clear a pathway, resisting arrest, or helping another to escape arrest, violate this rule.

• Fall back to a safe place if the situation becomes dangerous or violent.

**What Should I Do If An Arrest Occurs?**

• Ignoring an order to disperse could result in your arrest in Charlottesville. (Charlottesville Code § 20-9). Try to memorize the arresting officer’s badge number, name, or other identifying information.
• During an arrest, law enforcement may conduct a pat down of your body for the exclusive purpose of finding hidden weapons. If law enforcement wishes to search your person or possessions, phones, or bags, you must first provide your consent. If you do not consent to such a search, say so out loud.

• If you are arrested, you may be held at the scene or the Albemarle-Charlottesville Regional Jail until you can be processed. Your identifying information, address, photograph, or fingerprints may be taken and any prior criminal history, warrants, or unpaid parking or traffic tickets identified. Not providing this information upon arrest, or providing false information, is a Class 1 misdemeanor, punishable by not more than $2,500 and 12 months in jail. (Charlottesville Code § 20-8)

• A summons will be issued notifying you in writing to appear at a specified time and place for court. If you give your written consent to appear at such time and place, you should be released. (Charlottesville Code § 1-12a). Refusal to give written consent will result in continued detainment. (Charlottesville Code § 1-12d).

• To be prepared for such a misdemeanor arrest, bring your ID and any prescription medications you may need.

What Should I Do If Subject to Racial Discrimination or Harassment?

• You have the right to be free from racial discrimination or other forms of harassment by police. This right is guaranteed by local, state, and federal law. (Charlottesville Code § 2-431).

• If you believe that you have been targeted for discrimination on the basis of your identity while protesting or otherwise, you can call 844-9-No HATE or visit www.communitiesagainsthate.org to report the incident and get support.