



May 22, 2026

Mayor & Town Council
Town of Dover
37 North Sussex Street
Dover, New Jersey 07801

Sent via Electronic Mail (jdodd@dover.nj.us; dmendez@dover.nj.us; swittner@dover.nj.us; gestacio@dover.nj.us; jrugg@dover.nj.us; calmada@dover.nj.us; vvelez@dover.nj.us; asantana@dover.nj.us; mtapia@dover.nj.us; rrivera@akrlaw.com)

Dear Mayor Dodd and Council Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech, is concerned about Dover’s recently enacted ordinance governing decorum at public meetings. The ordinance imposes vague, overbroad, and viewpoint-discriminatory restrictions, particularly with its prohibitions on “offensive” or “abusive” language. Dover’s history of restricting protected speech at Town Council meetings heightens concerns regarding how the ordinance may be enforced. The First Amendment protects the right to criticize the government, even harshly, and even—especially—at public meetings. FIRE thus calls on the Mayor and Council to repeal or amend the ordinance and to commit to enforcing order in a manner consistent with the First Amendment.

Dover’s Ordinance

On December 9, 2025, the Mayor and Council enacted Ordinance No. 44-2025 to govern “decorum” at public meetings via rules for officials, speakers offering public comment, and audience members.¹ For public comment, the ordinance instructs that, “Any person who utters physically threatening, patently offensive or abusive language, or engages in any other conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any meeting shall, at the discretion of the presiding officer or a majority of the members, be asked to refrain from such conduct.”² Audience members are similarly instructed to refrain from “physically threatening or abusive language.”³ The ordinance also provides that the

¹ Dover, N.J., Ordinance No. 44-2025 (Dec. 9, 2025), *available at* <https://ecode360.com/DO1378/document/753209956.pdf>.

² *Id.* § 2-27(B)(4).

³ *Id.* § 2-27(B)(5).

presiding officer may ask law enforcement to remove people who persist in violating these rules and contemplates bans from Council meetings for up to a year for repeat violations.⁴ Additionally, the ordinance separately defines certain forms of expression as disruptive conduct for which the speaker may be called to order, including “[l]oud, threatening, offensive, abusive, or obscene language” and “displaying props, costumes, masks (other than medical), or other objects in a manner intended to disrupt or distract from proceedings.”⁵

First Amendment Concerns

The decorum ordinance raises constitutional concerns because the public comment period at municipal meetings is, at a minimum, a limited public forum where First Amendment protections apply.⁶ Though the government may enact time, place, and manner restrictions on speech,⁷ such as time limits for speakers, any restrictions still must be reasonable in light of the forum’s purpose,⁸ and the government must avoid vague, overbroad, or viewpoint-discriminatory restrictions, all of which are impermissible in *any* forum.⁹ The decorum ordinance falls short of these marks in several respects.

“Offensive” or “Abusive” Language

Courts across the country have repeatedly held bans on “offensive” or “abusive” language at public meetings violate the First Amendment.¹⁰ Such bans suffer from three problems, each of which independently renders them unconstitutional: vagueness, overbreadth, and viewpoint discrimination. The decorum ordinance features all three of these.

An ordinance is unconstitutionally vague if it fails to provide those of ordinary intelligence reasonable notice of what speech is prohibited or affords town officials unbridled discretion to decide what speech is permissible.¹¹ Determining what qualifies as “offensive,” “patently offensive,” or “abusive” is inherently subjective—there is no objective standard by which a speaker can know when sharp criticism crosses the line into being “offensive” or “abusive.” Similarly, a speaker cannot reasonably determine whether specific words cross the line, even if used in a descriptive or inquisitive manner rather than as an insult. The ordinance likewise provides no meaningful guidance to officials charged with enforcement, leaving decisions to their own subjective judgments in violation of the requirement that regulations

⁴ *Id.* § 2-27(F).

⁵ *Id.* § 2-27(E).

⁶ *See Galena v. Leone*, 638 F.3d 186, 199 (3rd Cir. 2011).

⁷ *Id.*

⁸ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

⁹ *Ctr. For Investigative Reporting v. SEPTA*, 975 F.3d 300, 313 (3rd Cir. 2020).

¹⁰ *See, e.g., Moms for Liberty v. Brevard Pub. Sch.*, 118 F.4th 1324 (11th Cir. 2024) (restrictions on “abusive,” “personally directed,” and “obscene” public comments); *Ison v. Madison Local Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 894–95 (6th Cir. 2021) (bans on “antagonistic,” “abusive,” and “personally directed” public comments); *Mejia v. Lafayette Consol. Gov’t*, No. 6:23-CV-00307, 2025 U.S. Dist. LEXIS 52868, at *24–25 (W.D. La. Mar. 20, 2025) (offensive, or specifically “vile,” “derogatory,” or “confrontational” comments); *Marshall v. Amuso*, 571 F. Supp. 3d 412, 425–26 (E.D. Pa. 2021) (“abusive,” “inappropriate,” “offensive,” and “personally directed” public comments).

¹¹ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

of speech “must provide explicit standards for those who apply them” to prevent “arbitrary and discriminatory enforcement.”¹²

An ordinance is overbroad if it “prohibits a substantial amount of protected speech . . . not only in an absolute sense, but also relative to the statute’s plainly legitimate sweep.”¹³ Here, the decorum ordinance’s bans on “offensive” or “abusive” language sweep far beyond any permissible limits, readily reaching a wide range of protected expression, including sharp, emotional, or unpopular criticism of government officials and policies. Notably, the ordinance does not require any showing of actual disruption but rather effectively treats “offensive” or “abusive” speech as inherently disruptive and subject to sanction—regardless of whether it actually interferes with the orderly conduct of the meeting.

This is not a hypothetical concern. At a February 25, 2025, meeting, a speaker asked Mayor Dodd about a widely circulated video depicting him shouting insults during a confrontation involving then-Alderwoman Carolyn Blackman and a political volunteer.¹⁴ The speaker asked whether the mayor had called Blackman a “pussy” and “fucking cunt,” terms heard in the video and quoted in media coverage of the incident.¹⁵ Citing the speaker’s “vulgar” language, Mayor Dodd instructed law enforcement to remove him.¹⁶ Notably, there was no meeting disruption beyond the mayor interrupting the speaker and having him removed. Although this incident occurred before adoption of the new decorum ordinance, speakers at the time were told not to make “abusive” or “obscene” comments. The speaker’s removal thus illustrates how officials can use such broad restrictions to suppress protected speech addressing matters of public concern—including alleged misconduct by elected officials—even when that speech does not disrupt the meeting.

Finally, it is a “bedrock principle underlying the First Amendment” that officials cannot restrict speech simply because some find it “offensive or disagreeable.”¹⁷ This applies, of course, when speech is deemed offensive based on its underlying message—the Supreme Court has long held governments may not restrict expression “when the specific motivating

¹² *Id.* at 108.

¹³ *United States v. Williams*, 553 U.S. 285, 292 (2008). The overbreadth doctrine “is predicated on the danger that an overly broad statute, if left in place, may cause persons whose expression is constitutionally protected to refrain from exercising their rights for fear” of violating the law. *Massachusetts v. Oakes*, 491 U.S. 576, 581 (1989).

¹⁴ Ignorance Is No Excuse, *Ignorance Is No Excuse Tour: Dover*, YOUTUBE, February 25, 2025, at 1:30, https://www.youtube.com/live/AOtHy_jnPDs?t=90s.

¹⁵ Peggy Wright, *Dover Mayor James Dodd’s ‘apology’ for obscenities rejected by alderwoman*, MORRISTOWN DAILY RECORD (Nov. 10, 2018), <https://www.dailyrecord.com/story/news/politics/2018/11/09/dover-nj-mayor-apologizes-vulgar-tirade-says-he-wont-resign/1934664002>; Dan Alexander, *Dover mayor screams ‘c**t’ and ‘p*ssy!’ at Alderwoman — on video*, NEW JERSEY 101.5, <https://nj1015.com/dover-mayor-screams-ct-and-pssy-at-alderwoman-on-video/>.

¹⁶ *Id.* at 2:18.

¹⁷ *Texas v. Johnson*, 491 U.S. 397, 414 (1989); see also *Baumgartner v. United States*, 322 U.S. 665, 673–74 (1944) (explaining freedom of expression necessarily protects “not only informed and responsible criticism,” but also “the freedom to speak foolishly and without moderation,” particularly in criticizing “public men and measures”).

ideology or the opinion or perspective of the speaker is the rationale for the restriction.”¹⁸ But this principle also applies when speech is deemed offensive based on particular words used. The Supreme Court, for example, protected the right to wear a jacket bearing the words “Fuck the Draft” inside a courthouse where children were present,¹⁹ and courts have “generally held that outright prohibitions on profane language or profanity are not allowed.”²⁰ As the Supreme Court has explained, “[g]iving offense is a viewpoint” protected by the First Amendment.²¹ Restrictions on “offensive” or “abusive” speech are therefore inherently viewpoint-based and “presumed impermissible when directed against speech otherwise within the forum’s limitations.”²² A government body cannot evade these constitutional limits by conflating the mere use of controversial or provocative language with a breach of decorum or disruption of proceedings.²³

“Threatening” or “Obscene” Language

While some speech falls into a narrow category of unprotected speech, such as true threats or obscenity, those categories are narrower than colloquial understandings, with specific, limited meanings under the First Amendment that limit any enforcement the council may attempt.

True threats are only “serious expressions . . . that a speaker means to commit an act of unlawful violence” and exclude merely hyperbolic, emotionally charged, or unserious statements,²⁴ meaning Dover may not treat speech as “threatening” based simply on a judgment that it is disturbing, alarming, or offensive.

Obscenity is also a narrow category under Supreme Court precedent, involving only expression that (1) the “average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;” (2) it portrays “sexual conduct” in a “patently offensive” manner; *and* (3) “taken as a whole,” it lacks “serious literary, artistic, political, or scientific value,”²⁵ *i.e.*, only certain depictions of

¹⁸ *Rosenberger*, 515 U.S. at 829.

¹⁹ *Cohen v. Cal.*, 403 U.S. 15 (1971).

²⁰ *Mama Bears of Forsyth Ct. v. McCall*, 642 F. Supp. 3d 1338, 1355 (N.D. Ga. 2022) (citing as examples *Acosta v. City of Costa Mesa*, 718 F.3d 800, 813 (9th Cir. 2013) (“§ 2-61 prohibits the making of ‘personal, impertinent, profane, insolent or slanderous remarks.’ That, without limitation, is an unconstitutional prohibition on speech”); *Kalman v. Cortes*, 723 F. Supp. 2d 766, 798–99 (E.D. Pa. 2010) (a restriction on “‘profanity,’ without more, is not a valid reason for suppressing speech”)).

²¹ *Matal v. Tam*, 582 U.S. 218, 243 (2017).

²² *Church on the Rock v. City of Albuquerque*, 84 F.3d 1273, 1279 (10th Cir. 1996) (quoting *Rosenberger*, 515 U.S. at 830); *see also Bible Believers v. Wayne Cnty., Mich.*, 805 F.3d 228, 248 (6th Cir. 2015) (*en banc*) (viewpoint discrimination is “censorship in its purest form,” and government action “that discriminates among viewpoints threatens the continued vitality of free speech”) (cleaned up).

²³ *See, e.g., Norse v. City of Santa Cruz*, 629 F.3d 976 (9th Cir. 2010) (*en banc*) (rejecting city council’s attempt to “define ‘disturbance’ in any way they choose”: “Actual disruption means actual disruption. It does not mean constructive disruption, technical disruption, virtual disruption, *nunc pro tunc* disruption, or imaginary disruption.”).

²⁴ *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (cleaned up).

²⁵ *Miller v. California*, 413 U.S. 15, 24 (1973) (internal quotation marks omitted).

hardcore sexual conduct.²⁶ A government body may not prohibit language as purportedly “obscene” simply because it is vulgar, offensive, crude, or sensual.

Props, Costumes, and Masks

The ordinance also overreaches in treating “[d]isplaying props, costumes, masks (other than medical), or other objects in a manner intended to disrupt or distract from the proceedings” as disruptive conduct subject to sanction. Importantly, the ordinance does not require such conduct to actually cause disruption but turns only on whether officials believe it was intended to do so. This may seem like a minor point, but the difference is legally significant as it turns an objective test into something based on officials’ subjective interpretations of someone else’s intent—a standard that poses significant risk of officials inferring intent to disrupt if they view a prop, costume, or mask as critical, offensive, or mocking. The town’s reaction to an incident last year illustrates that risk.

On May 27, 2025, a self-identified medical cannabis patient participated in public comment while wearing a burqa, to express concern about a smoking ordinance.²⁷ Though the speaker claimed to be a Muslim woman, Mayor Dodd suspected the speaker was actually a costumed male cannabis and disability activist who had criticized the mayor and council at previous meetings.²⁸ Officials instructed the speaker that face coverings were not allowed, but the speaker refused to remove the burqa for “religious reasons.”²⁹ After the speaker left the meeting, Mayor Dodd resumed proceedings and added to the agenda a resolution, drafted in response to the incident, to hold future meetings virtually “until changed by the council.”³⁰

In discussing the resolution, Mayor Dodd invoked, among other justifications, viewpoint-based reasons to support it. He stated, “when somebody comes here and mocks a religious belief, to sit here and think it’s okay is not acceptable. I don’t want to be part of that.”³¹ Later he added, “I’m not going to let this town be turned into a mockery. . . . In the meantime, I’m not in a position to sit here and be ridiculed and humiliated, turned into a mockery . . .”³² A subsequent press release—which quoted Mayor Dodd referencing “crude, vulgar remarks” and saying the public comment period has become “a spectacle that undermines the dignity

²⁶ *Penguin Random House LLC v. Gibson*, 796 F. Supp. 3d 1052, 1075 (M.D. Fla. 2025).

²⁷ Dover NJ Community Forum, *May 27, 2025 - Town of Dover Mayor & Council mtg*, YOUTUBE, at 0:18:49, <https://www.youtube.com/watch?v=IIP9xKfl0ww&t=1129s>.

²⁸ William Westhoven, *After bizarre burqa stunt, Morris County mayor says no more public meetings*, THE DAILY RECORD (May 30, 2025), <https://www.dailyrecord.com/story/news/2025/05/30/dover-nj-cancels-public-meetings-burqa-stunt/83941087007/>.

²⁹ *Id.*

³⁰ *Id.*

³¹ Dover NJ Community Forum, *supra* note 27, at 1:57:24, <https://www.youtube.com/watch?v=IIP9xKfl0ww&t=7044s>.

³² *Id.* at 2:28:56, <https://www.youtube.com/watch?v=IIP9xKfl0ww&t=8936s>.

of public discourse”³³—described the burqa incident as involving “derogatory comments about the Muslim faith.”³⁴

Though this episode happened before the decorum ordinance’s adoption, it illustrates how officials may treat speech perceived as offensive or mocking as grounds for intervention, in violation of the First Amendment’s prohibition against the government suppressing speech based on perceived offensiveness or tone (or because it is mocking, humiliating, undignified, vulgar, derogatory, or otherwise offensive). Even if a male, non-Muslim activist wearing a burqa may be offensive to some—even if it is intended to be—such expression cannot be restricted unless it is objectively disruptive. And even if an incident could be considered disruptive, the First Amendment does not permit officials to treat perceived offensiveness as an additional basis for restricting the expression.

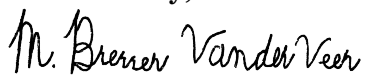
The ordinance’s focus on an intent to disrupt requires officials to infer that intent based on their subjective perception of the expression, making enforcement also very likely to be viewpoint discriminatory. Moreover, it leaves speakers no clear way to distinguish between conduct that will be deemed disruptive and expression that will be seen as merely emphatic or attention-grabbing. The First Amendment permits regulation of expressive conduct only when it actually interferes with the orderly conduct of the meeting, not when it is merely perceived as provocative or controversial.

Conclusion

Dover’s decorum ordinance requires revisions to comply with First Amendment standards. The Council need not allow meetings to become circuses where anything goes, and may restrict conduct that actually disrupts proceedings—but it may not impose vague, over-broad, and/or viewpoint discriminatory speech restrictions. FIRE is happy to work with Dover—at no cost—to help ensure the town meets its constitutional obligations.

We respectfully request a substantive response to this letter no later than June 5, 2026.

Sincerely,



Brennen VanderVeen
Program Counsel, Public Advocacy

³³ Town of Dover, Morris County, NJ, FACEBOOK, (May 30, 2025), <https://www.facebook.com/TownOfDoverMorrisCountyNj/posts/dover-nj-may-30-2025-in-response-to-escalating-safety-concerns-and-increasingly-/1126886622801695/>.

³⁴ *Id.* On January 1, 2026, the town resumed in-person meetings for the first time in eight months. See Frank Cahill, *Dover Votes to Resume in-Person Town Council Meetings*, MORRIS COUNTY FOCUS (December 31, 2025), <https://morrisfocus.com/2025/12/31/dover-votes-to-resume-in-person-town-council-meetings/>.