NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

FORSYTH COUNTY, GEORGIA *v.* NATIONALIST MOVEMENT

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 91–538. Argued March 31, 1992—Decided June 19, 1992

Petitioner county's Ordinance 34 mandates permits for private demonstrations and other uses of public property; declares that the cost of protecting participants in such activities exceeds the usual and normal cost of law enforcement and should be borne by the participants; requires every permit applicant to pay a fee of not more than $1,000; and empowers the county administrator to adjust the fee's amount to meet the expense incident to the ordinance's administration and to the maintenance of public order. After the county attempted to impose such a fee for respondent's proposed demonstration in opposition to the Martin Luther King, Jr., federal holiday, respondent filed this suit, claiming that the ordinance violates the free speech guarantees of the First and Fourteenth Amendments. The District Court denied relief, ruling that the ordinance was not unconstitutional as applied in this case. The Court of Appeals reversed, holding that an ordinance which charges more than a nominal fee for using public forums for public issue speech is facially unconstitutional.

Held: The ordinance is facially invalid. Pp.6–14.

(a) In order to regulate competing uses of public forums, government may impose a permit requirement on those wishing to hold a march, parade, or rally, if, *inter alia,* the permit scheme does not delegate overly broad licensing discretion to a government official, *Freedman* v. *Maryland,* 380 U.S. 51, 56, and is not based on the content of the message, see *United States* v. *Grace,* 461 U.S. 171, 177. Pp.6–7.

(b) An examination of the county's implementation and authoritative constructions of the ordinance demonstrates the absence of the constitutionally required ``narrowly drawn, reasonable and definite standards,'' *Niemotko* v. *Maryland,* 340

U.S. 268, 271, to guide the county adminstrator's hand when he sets a permit fee. The decision how much to charge for police protection or administrative time—or even whether to charge at all—is left to the unbridled discretion of the administrator, who is not required to rely on objective standards or provide any explanation for his decision. Pp.7–10.

FORSYTH COUNTY *v.* NATIONALIST MOVEMENT

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(c)The ordinance is unconstitutionally content-based because it requires that the administrator, in order to assess accurately the cost of security for parade participants, must examine the content of the message conveyed, estimate the public response to that content, and judge the number of police necessary to meet that response. *Cox* v. *New Hampshire,* 312 U.S. 569, distinguished. Pp.11–13.

(d)Neither the $1,000 cap on the permit fee, nor even some lower ``nominal'' cap, could save the ordinance. *Murdock* v. *Pennsylvania,* 319 U.S. 105, 116, distinguished. The level of the fee is irrelevant in this context, because no limit on the fee's size can remedy the ordinance's constitutional infirmities. Pp.13–14.

913 F.2d 885 and 934 F.2d 1482, affirmed.

BLACKMUN, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, KENNEDY and SOUTER, JJ., joined. REHNQUIST, C. J., filed a dissenting opinion, in which WHITE, SCALIA, and THOMAS, JJ., joined.