

City of Nettleton
Ordinance on Parades, Processions, and Public Demonstrations

WHEREAS, the Mayor and Board of Aldermen of the City of Nettleton, Mississippi (the “City”) have a central purpose of preserving and protecting the health, safety, and welfare of the general public;

WHEREAS, the Mayor and Board of Aldermen of the City have the duty and responsibility to keep the streets, avenues, and ways of the City open and available for movement;

WHEREAS, the Mayor and Board of Aldermen of the City desire to balance the protection of public safety with the needs of individuals and groups to use public spaces to communicate constitutionally protected speech;

WHEREAS, the Mayor and Board of Aldermen of the City find this Ordinance necessary to protect the public health, safety, and welfare of the general public and to achieve the desired balance between the City’s interest in public safety and the use of the public spaces for constitutionally protected communication;

WHEREAS, the Mayor and Board of Aldermen find this Ordinance to be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY AS FOLLOWS:

Section 1 - Introduction

1. Title. This article shall be known as the Ordinance on Parades, Processions, and Public Demonstrations.
2. Repeal and Severability.
 - A. The ordinance Regulating Parades, Processions, and Public Demonstrations (#116) adopted June 5, 1990 is hereby repealed.
 - B. Should any portion or provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. It is the express intent of the Mayor and Board that this Ordinance operate separately as to each provision contained herein and the invalidity of one provision shall not affect the enforceability of any other provision hereof.

Section 2 - Definitions

Board. The Board of Aldermen of Nettleton, Mississippi.

Chief of Police. The Chief of Police of the City of Nettleton.

City. The City of Nettleton, Mississippi.

City Clerk. The City Clerk of the City.

Filing Period. At least two (2) days before the Parade or Public Assembly is proposed to commence.

Mayor. The Mayor of the City of Nettleton.

Parade. Any march, demonstration, procession, or motorcade consisting of ten (10) or more people, in addition to animals, vehicles, floats or a combination thereof upon the Streets, parks or other public grounds within the City with the intent of attracting public attention that interferes with the normal flow or regulation of traffic upon the Streets, parks, or other public grounds. This definition does not include such gatherings if they stay on public sidewalks or in a designated public area and do not interfere with traffic and/or street closure.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Public Assembly. Any meeting, demonstration, picket line, rally or gathering for a common purpose that interferes with the normal flow or regulation of pedestrian or vehicular traffic and occupies any public area in a place open to the general public. Such an assembly often requires sound amplifying devices which could be disruptive. Non-disruptive public gatherings of under ten (10) people are exempt from the requirements of this Ordinance.

Sidewalk. Any area or way set aside or open to the general public for purposes of pedestrian traffic whether or not it is paved.

Parade or Public Assembly Permit. A Permit required by this Ordinance (the "Permit").

Street. Any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder, parkway, right-of-way, island, or median strip thereof.

Unit. Any float, vehicle, marching band, team of horses or other animals, or any other collective participating in a Parade or Public Assembly.

Section 3 – Permit Required and Exemptions

1. No person shall engage in or conduct any Parade or Public Assembly as defined herein unless a Permit is approved by the Chief of Police (or) the Mayor and issued by the City Clerk.
2. The Police Chief should meet with the Mayor to discuss each application for a permit when possible.
3. A permit granted shall be effective for one (1) day.
4. This article shall not apply to funeral processions.
5. This article shall not apply to students participating in an educational activity provided that they are under the immediate direction and supervision of school or parental authorities.
6. This article shall not apply to governmental agencies acting within the scope of its functions.

Section 4 – Application

1. Application Form. A Person seeking a Parade or Public Assembly Permit shall file an application with the City Clerk on forms provided by such officer and the application shall be signed by the applicant under oath.
2. Application Fee. A nonrefundable fee of twenty-five dollars (\$25.00) to cover administrative costs of processing the Permit shall be paid to the City of Nettleton by the applicant when the application is filed.
3. Application Deadline. Permit Applications for Parades or Public Assemblies shall be filed within the Filing Period.
4. An application for a Parade or Public Assembly Permit shall be considered filed upon receipt of the fully completed application and the application fee by the City Clerk.
5. Upon receipt of the complete application and fee, the City Clerk shall immediately forward the application to the Chief of Police.

Section 5 - Contents of Application.

The application for a Parade or Public Assembly Permit shall set forth the following information:

1. The name, address and telephone number of the Person seeking to conduct such Parade or Public Assembly;
2. The requested date of the Parade or Public Assembly;
3. The route to be traveled, including the starting point and the termination point;
4. The approximate number of Persons who, and animals and vehicles which, will constitute such Parade or Public Assembly and the type of animals and description of the vehicles;
5. The hours when such Parade or Public Assembly will start and terminate;
6. The location by Street of any assembly areas for such Parade or Public Assembly;
7. The type of Public Assembly, including a description of activities planned during the event; and

8. Any additional information that the Chief of Police finds reasonably necessary to a fair determination as to whether a Permit should be issued.

Section 6 - Police Protection.

1. Police Protection. The Chief of Police shall determine whether and to what extent additional police protection is reasonably necessary for the Parade or Public Assembly for traffic control and public safety. The Chief of Police shall base this decision on the size, location, duration, time and date of the event, the number of Streets and intersections blocked, and the need to detour or preempt citizen travel and use of the Streets and Sidewalks.
2. Public Issue Speech. Persons engaging in peaceful Parades or Public Assemblies conducted for the sole purpose of public issue speech protected under the First Amendment are not required to pay for any police protection.

Section 7 - Standards for Approval

1. Structures. No Permit shall be approved that allows for the erection or placement of any structure, whether permanent or temporary, on a city Street or Sidewalk unless advance approval for the erection or placement of the structure is obtained from the Board.
2. The Chief of Police (or) the Mayor shall approve a Permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:
 - A. The Parade or Public Assembly will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic within one quarter (1/4) mile of its route or location;
 - B. The conduct of the Parade or Public Assembly will not require the diversion of so great a number of City police officers to prevent normal police protection of the City;
 - C. The concentration of people, animals, and vehicles at Public Assembly points of the Parade or Public Assembly will not unreasonably interfere with property, fire and police protection of, or ambulance service to, areas within one quarter mile (1/4) of such Public Assembly areas;
 - D. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any Public Assembly areas;
 - E. Such Parade or Public Assembly is not for the primary purpose of advertising any product, goods or event that is primarily for private profit and the Parade itself is not primarily for profit;
 - F. No Parade or Public Assembly Permit application for the same time and location is already granted or has been received and will be granted; and
 - G. No event is scheduled elsewhere in the City where the police resources required for that event are so great that the deployment of police services for the proposed

Parade or Public Assembly would have an immediate and adverse effect upon the welfare and safety of Persons and property.

3. The Police Chief (or) Mayor retains the right to reject a permit if necessary in the event of an emergency.

Section 8 - Nondiscrimination

The Chief of Police (or) Mayor shall uniformly consider each application upon the facts provided and shall not discriminate in approving or denying Permits under this article based upon political, religious, ethnic, race, disability or gender related grounds.

Section 9 - Time Limit for Action on Application

1. The Chief of Police (or) Mayor shall approve or deny a timely filed application for a Parade or Public Assembly Permit no later than two (2) calendar days from the date the application is filed.
2. In the event the Chief of Police (or) Mayor waives the filing deadline and accepts untimely filed applications, he or she shall take action on such untimely filed applications no later than twenty-four (24) hours prior to the Parade or Public Assembly.
3. The Chief of Police (or) Mayor shall send notice to the City Clerk of the action taken on the Permit application, including a statement of reasons for denial, in accordance with the time periods specified in sections herein.
4. The City Clerk shall send notice to the applicant of the action taken on the Permit application via telephone, email, or personal delivery immediately and in no event later than one (1) business day after receipt of the Chief of Police's action on the Permit application.
5. In the event the Chief of Police fails to take action on a Parade or Public Assembly Permit application and/or the City Clerk fails to send notification to the applicant within the applicable time period, the Permit shall be granted to the extent the underlying Parade or Public Assembly complies with the express provisions of this ordinance and is not in conflict with the overall intent of this ordinance.

Section 10 - Alternative Permit

1. The Chief of Police, in denying an application for a Parade or Public Assembly Permit, may authorize the conduct of the Parade or Public Assembly at a date, time, location, or route different from that named by the applicant. An applicant desiring to accept an alternate Permit shall, within one (1) business day of issuance of the alternative Permit, file a written notice of acceptance with the City Clerk.
2. An alternate Parade or Public Assembly Permit shall conform to the requirements of, and shall have the effect of, a Parade or Public Assembly Permit issued under this article.

Section 11 - Appeal Procedures.

1. Any applicant shall have the right to appeal the denial of a Permit to the Board. The denied applicant shall make the appeal within three (3) days after receipt of the denial by filing a written notice with the City Clerk who shall send a copy of the notice to the Chief of Police and City Attorney. The Board shall act upon the appeal at the next regularly scheduled Board of Aldermen meeting following receipt of the notice of appeal. If the requested date for the Parade or Public Assembly is scheduled to occur prior to the next regularly scheduled Board of Aldermen meeting, then the Board of Aldermen will use reasonable efforts to schedule a special meeting of the Board of Aldermen to address the appeal prior to the scheduled date.
2. In the event that the Board of Aldermen rejects or fails to take action on an applicant's appeal by the next regularly scheduled meeting of the Board of Aldermen, the applicant may file an immediate request for review with a court of competent jurisdiction.

Section 12 - Notice to City and Other Officials.

1. Upon the issuance of a Parade or Public Assembly Permit, the City Clerk shall send a copy thereof to:
 - A. The Chief of Police
 - B. The Mayor
 - C. The Fire Chief
 - D. The Director of Public Works
 - E. The City Attorney

Section 13 - Contents of Permit.

1. Each Parade or Public Assembly Permit shall state the following information:
 - A. Starting and approximate ending time;
 - B. Maximum speed of Parade Units;
 - C. The portions of the Streets that may be occupied by the Parade or Public Assembly;
 - D. The maximum length of the Parade in miles or fractions thereof; and
 - E. Such other information as the Chief of Police shall find reasonably necessary to the enforcement of this article.

Section 14 - Duties of Permittee.

1. A permittee hereunder shall comply with all Permit guidelines and with all applicable laws.
2. The Parade or Public Assembly chairman or other Person heading such activity shall carry the Parade or Public Assembly Permit upon his or her person during the conduct of the Parade or Public Assembly.

Section 15 – Prohibitions.

1. The following prohibitions shall apply to all Parades and Public Assemblies:

- A. It shall be unlawful for any Person to stage, present or conduct any Parade or Public Assembly as defined without first having obtained a Permit as provided herein;
 - B. It shall be unlawful for any Person in charge of, or responsible for the conduct of a duly licensed Parade or Public Assembly to willfully fail to comply with any condition of the Permit;
 - C. It shall be unlawful for any Person to engage in any Parade or Public Assembly activity that would constitute a substantial hazard to the public safety or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property;
 - D. All persons shall not conduct themselves in a disorderly manner, and profanity shall not be used.
2. No Parade or Public Assembly shall be conducted on the Streets of the City after sunset.

Section 16 - Public Conduct During Parades or Public Assemblies.

1. No Person shall hamper, obstruct or impede or interfere with any Parade or Public Assembly or with any Person, vehicle or animal participating or used in a Parade or Public Assembly.
2. No driver of a vehicle shall drive between the vehicles or Persons comprising a Parade or Public Assembly when such vehicles or Persons are in motion and are conspicuously designated as a Parade or Public Assembly.
3. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a Street constituting a part of the route of a Parade or Public Assembly. The Chief of Police shall post signs to that effect, and it shall be unlawful for any Person to work or leave unattended any vehicle in violation thereof. No Person shall be liable for parking on a Street in violation of this article if the parking restrictions were not posted.

Section 17 - Revocation/Revision of Permit.

1. The Chief of Police shall have the authority to revoke a Parade or Public Assembly Permit instantly upon violation of the conditions or standards for approval as set forth in this article, the violation of any federal, state, or local law, or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the Parade or Public Assembly would have an immediate and adverse effect upon the welfare and safety of Persons or property.
2. The Chief of Police shall have the authority to revise a Parade or Public Assembly Permit until twenty-four (24) hours prior to the Parade or Public assembly in the event a circumstance which was not present when the Permit was granted renders the location or route of the proposed Parade or Public Assembly no longer appropriate due to public health, safety, or welfare concerns.

Section 18 – Solicitation.

No Solicitation. No Person shall enter any Street for the purpose of soliciting employment, business, membership, or contributions of any kind from the occupant of any motor vehicle.

Section 19 – Compliance with Applicable Law.

All Parades and Public Assemblies shall be conducted in compliance with all applicable federal, state, and local law.

Section 20 – Permit Construction.

The receipt of a Permit from the City shall not be construed as granting authorization which may be required by any other federal, state, or local entity for the Parade or Public Assembly. The applicant shall be responsible for obtaining authorization for the proposed Parade or Public Assembly from any federal, state or local governmental entity other than the City which requires such authorization.

Section 21 – Penalty.

Any Person violating any of the provisions of this article shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding ninety (90) days, or both. Each time that an offense or violation of this article occurs shall be deemed a separate offense.

Section 22 - Effective Date of Ordinance.

Effective Date. This Ordinance shall become effective one (1) month after passage.

SO ORDAINED this the 6th day of September, 2016.

Mem Riley, Mayor

ATTEST:

Dana Burcham, City Clerk