

City of Flowood, Mississippi

Parade, Public Assembly, and Solicitation Ordinance

Adopted January 4, 2010

**ORDINANCE OF THE CITY OF FLOWOOD, MISSISSIPPI GOVERNING PARADES
PUBLIC ASSEMBLIES, AND SOLICITATION**

WHEREAS, the Mayor and Board of Aldermen of the City of Flowood, 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 fora 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 fora for constitutionally protected communication;

WHEREAS, the Mayor and Board of Aldermen find this Ordinance to be in the best interest of the City and in full compliance with the City Ordinances

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

Section 1 - Introductory Statement

1.1 Title. This Ordinance shall be known as the Parade, Public Assembly, and Solicitation Ordinance of the City of Flowood, Mississippi.

1.2 Repeal and Severability.

(a) The ordinance governing Parades, Processions, Picketing, and Public Demonstrations adopted by the Mayor and Board of Aldermen on the 5th day of May, 1992 and any and all previous ordinances governing Parades, Public Assemblies, and/or other similar events are hereby repealed.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 provisions hereof.

Section 2 - Definitions

- 2.1 Chief of Police. The Chief of Police of the City.
- 2.2 City. The City of Flowood, Mississippi.
- 2.3 City Clerk. The City Clerk of the City.
- 2.4 Filing Period. At least fourteen (14) days and not more than one hundred eighty (180) days before the Parade or Public Assembly is proposed to commence.
- 2.4 Parade. Any march, demonstration, procession, or motorcade or promenade consisting of people, animals, vehicles, floats, or a combination thereof upon the Streets, parks or other public grounds within the City with an intent of attracting public attention that interferes with the normal flow or regulation of traffic upon the Streets, parks, or other public grounds.
- 2.5 Person. Any person, firm, partnership, association, corporation, company or organization of any kind.
- 2.6 Public Assembly. Any meeting, demonstration, picket line, rally or gathering for a common purpose as a result of prior planning 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
- 2.7 Sidewalk. Any area or way set aside or open to the general public for purposes of pedestrian traffic whether or not it is paved
- 2.8 Parade or Public Assembly Permit. A Permit required by this Ordinance (the "Permit").
- 2.9 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.
- 2.10 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

- 3.1 No Person shall engage in or conduct any Parade or Public Assembly unless a Permit is approved by the Chief of Police and issued by the City Clerk.

Section 4 - Application

4.1 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.

4.2 Application Fee. A nonrefundable fee of \$25.00 to cover administrative costs of processing the Permit shall be paid to the City of Flowood by the applicant when the application is filed.

4.3 Application Deadline. Permit Applications for Parades or Public Assemblies shall be filed within the Filing Period. The Chief of Police may waive the fourteen (14) day filing deadline and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the Parade or Public Assembly, the anticipated number of participants, and the city services required in connection with the event, but not the speech content of the Parade or Public Assembly, the Chief of Police determines that the waiver will not present a hazard to public safety.

4.4 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.

4.5 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.

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

- (a) The name, address and telephone number of the Person seeking to conduct such Parade or Public Assembly;
- (b) The names, addresses and telephone numbers of the headquarters of the organization for which the Parade or Public Assembly is to be conducted, if any, and the authorized and responsible heads of the organization;
- (c) The requested date of the Parade or Public Assembly;
- (d) The route to be traveled, including the starting point and the termination point;
- (e) 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;
- (f) The hours when such Parade or Public Assembly will start and terminate;

- (g) A statement as to whether the Parade or Public Assembly will occupy all or only a portion of the width of the Streets proposed to be traversed;
- (h) The location by Street of any assembly areas for such Parade or Public Assembly;
- (i) The time at which Units/participants of the Parade or Public Assembly will begin to assemble at any such area;
- (j) The intervals of space to be maintained between Units of such Parade or Public Assembly;
- (k) If the Parade or Public Assembly is designed to be held by, or on behalf of, any Person other than the applicant, the applicant for such Permit shall file a letter from that Person with the Chief of Police authorizing the applicant to apply for the Permit on his or her behalf;
- (l) The type of Public Assembly, including a description of activities planned during the event;
- (m) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the Parade or Public Assembly;
- (n) The approximate number of participants (spectators are by definition not participants);
- (o) The approximate number of spectators;
- (p) A designation of any public facilities or equipment to be utilized; and
- (q) Any additional information that the Chief of Police finds reasonably necessary to a fair determination as to whether a Permit should issue.

Section 6 - Police Protection

6.1 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. The speech content of the event shall not be a factor in determining the amount of police protection necessary. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection for the Public Assembly is

deemed necessary by Chief of Police, he shall so inform the applicant for the Permit. The applicant then shall have the duty to secure the police protection deemed necessary by the Chief of Police at the sole expense of the applicant.

6.2 Public Issue Speech. Persons engaging in 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 provided by the city.

Section 7 - Standards for Approval

7.1 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 of Aldermen.

7.2 The Chief of Police 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 contiguous to 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 police properly the line of movement and the areas contiguous thereto as 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 unduly interfere with property, fire and police protection of, or ambulance service to, areas contiguous to such Public Assembly areas;
- (d) The conduct of the Parade or Public Assembly is not reasonably likely to cause injury to Persons or property;
- (e) The Parade or Public Assembly is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
- (f) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any Public Assembly areas;
- (g) There are sufficient parking places near the site of the Parade or Public Assembly to accommodate the number of vehicles reasonably expected;

(h) The applicant has secured the police protection, if any, required under section 6;

(i) 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. The prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the Parade;

(j) No Parade or Public Assembly Permit application for the same time and location is already granted or has been received and will be granted;

(k) No Parade or Public Assembly Permit application for the same time but not location has already been issued or has been received and will be granted, and the police resources required for that prior Parade or Public Assembly are so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of Persons and property; and

(l) 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.

Section 8 - Nondiscrimination

8.1 The Chief of Police shall uniformly consider each application upon its merits 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

9.1 The Chief of Police shall approve or deny a timely filed application for a Parade or Public Assembly Permit no later than seven (7) calendar days from the date the application is filed.

9.2 In the event the Chief of Police waives the filing deadline and accepts untimely filed applications according to Section 4.3, he or she shall take action on such untimely filed applications no later than forty-eight (48) hours prior to the Parade or Public Assembly, except in the event the application is received less than seventy-two (72) hours prior to the Parade or Public Assembly, then the Chief of Police shall take action on such Permit within a reasonable time.

9.3 The Chief of Police 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 9.1 and 9.2

9.4 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.

9.5 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

10.1 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 five days of issuance of the alternative Permit, file a written notice or acceptance with the City Clerk.

10.2 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

11.1 Any applicant shall have the right to appeal the denial of a Parade or Public assembly Permit to the Board of Aldermen. The denied applicant shall make the appeal within five 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 of Aldermen 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.

11.2 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.

12.1 Immediately 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

13.1 Each Parade or Public Assembly Permit shall state the following information:

- (a) Starting and approximate ending time;
- (b) Minimum speed of Parade Units;
- (c) Maximum speed of Parade Units;
- (d) Maximum interval of space to be maintained between Units;
- (e) The portions of the Streets that may be occupied by the Parade or Public Assembly;
- (f) The maximum length of the Parade in miles or fractions thereof; and
- (g) Such other information as the Chief of Police shall find necessary to the enforcement of this article.

Section 14 - Duties of Permittee

14.1 A permittee hereunder shall comply with all Permit directions and conditions and with all applicable laws and ordinances.

14.2 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

15.1 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 without first having obtained a Permit as herein provided;

(b) It shall be unlawful for any Person to participate in a Parade or Public Assembly for which the Person knows a Permit has not been granted;

(c) It shall be unlawful for any Person in charge of, or responsible for the conduct of a duly licensed Parade or Public Assembly to knowingly fail to comply with any condition of the Permit;

(d) 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;

(e) It shall be unlawful for any Person participating in any Parade or Public Assembly to carry or possess any length of metal, lumber, wood or similar material for purposes of displaying a sign, poster, plaque or notice, unless such object is one-fourth (1/4) inch or less in thickness and two (2) inches or less in width, or if not generally rectangular in shape, such object shall not exceed three-fourths (3/4) of an inch in its thickest dimension;

(f) It shall be unlawful for any Person to carry any sign, poster, plaque, or notice, whether or not mounted on a length of material as specified in subsection (e) of this section, unless such sign, poster, plaque, or notice is constructed or made of a cloth, paper, cardboard, or other light weight material; and

(g) It shall be unlawful for any Person to ride, drive, or cause to be ridden or driven any animal or any animal-drawn vehicle upon any public Street, unless specifically authorized by the Permit.

15.2 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

16.1 No Person shall unreasonably 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.

16.2 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.

16.3 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

17.1 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.

17.2 The Chief of Police shall have the authority to revise a Parade or Public Assembly Permit until ten (10) days 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.

Section 18 - Solicitation

18.1 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

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

Section 20 – Permit Construction

20.1 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

21.1 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

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

SO ORDAINED this the 4th day of January, 2010.

s/ Gary Rhoads

Gary Rhoads, Mayor

ATTEST:

By: s/ Julia Williams

Julia Williams, City Clerk