



RESOLUTION TITLE: TO AMEND THE GASTON COUNTY CODE OF ORDINANCES, CHAPTER 8 – HEALTH AND SANITATION, ARTICLE IV – PUBLIC ASSEMBLY AND PARADE NOTIFICATION – TO CREATE ARTICLE OUTLINING COUNTY NOTIFICATION PROCESS FOR PUBLIC ASSEMBLIES HELD ON COUNTY PROPERTY (FIRST READING)

Purpose.

The purpose of this Ordinance is to protect the public's right to free speech and expression thereof, while also providing law enforcement with sufficient notice to prepare and provide for the safety of the public.

WHEREAS, Chapter 8 of the Gaston County Code of Ordinances concerns the health and safety of the citizens of Gaston County; and,

WHEREAS, there is currently no provision in the Code of Ordinances that deals directly with the notification process for public assemblies held on County property; and,

WHEREAS, Gaston County wishes to add an article to this chapter to outline the process for obtaining Receipt of Notification for a public assembly on County property.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners hereby modifies Chapter 8 of the Gaston County Code of Ordinances and creates Article IV as follows:

ARTICLE IV. – PUBLIC ASSEMBLY AND PARADE NOTIFICATION

Purpose.

The purpose of this Ordinance is to protect the public's right to free speech and expression thereof, while also providing law enforcement with sufficient notice to prepare and provide for the safety of the public.

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	AFrale	BHovis	KJohnson	TKelgher	TPhylbeck	RWorley	Vote
2021-067	02/23/2021	CB	BH	A	AB	A	A	A	A	AB	U

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Definitions.

As used in this article, the following definitions shall apply:

- (1) *Appeals official* means the county manager, or his or her designee who shall be an assistant county manager. If the county manager acts as the notification official, the appeals official shall be the Chairman of the Board of County Commissioners.
- (2) *Demonstration* means a public display of sentiment for or against a person or cause, including protesting.
- (3) *Festival* means an outdoor concert, fair, community event, or similar event that is primarily commercial and/or recreational in nature.
- (4) *Parade* means an athletic event, march, procession, or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street or sidewalk. A funeral procession is not a parade.
- (5) *Approving official* means the Sheriff or sheriff's deputy designated by the Sheriff, the county manager, an assistant or deputy county manager, or the county attorney as being responsible for issuing and revoking approval of a public assembly on County property under this article. The county manager may designate different persons as the approving official for different categories of events and for different facilities or locations.
- (6) *Public assembly* means:
A gathering of 25 or more people reasonably anticipated to obstruct the normal flow of traffic on county property; and gathering of 25 or more people in or on Gaston County Courthouse property, the Sheriff's Office Headquarters, the Gaston County Jail, the Gaston County Administrative Building, or any other County-owned property.

Public assembly and parade notification.

(a) *Notification required.* No public assembly or parade is permitted unless proper notification of such activity has been provided to one or more Approving Officials, and remains unrevoked, pursuant to this section.

(b) *Notification of Public Assembly form.* Notification of a forthcoming public assembly or parade shall be made in writing on a form prescribed by the County at least two (2) business days (Monday through Friday) before the commencement of the event, with the exception of a protest, which requires at least twenty-four (24) hours' notice. Notwithstanding the preceding sentence, the Approving Official shall consider notification that is filed less than two (2) business days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event, or where other good and compelling causes are shown. The Notification of Public Assembly form will be available on the County's website for members of the public to access, and physical copies of the Notification of Public Assembly form will be made available to members of the public at the Gaston County Sheriff's Office and at the Gaston County Administrative Building.

The Notification of Public Assembly form must contain the following:

- (1) The name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is providing notice (collectively "applicant");
- (2) The name, address, and telephone number for an individual who shall be designated as the responsible planner and on-site manager for the event;

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- (3) The date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband, and any requested street closings;
- (4) The anticipated number of persons and vehicles, and the basis on which this estimate is made;
- (5) A list of the number and type of animals that will be at the event and all necessary health certificates for such animals; and
- (6) Such other information, attachments, and submissions that are requested on the Notification of Public Assembly form; and

Nothing in this section shall authorize the Approving Official to deny or revoke approval of an event based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

The Approving Official may attach reasonable conditions to any approved event and shall provide a Receipt of Notification form to the notifying member of the public. The individual responsible for organizing the public assembly must keep a copy of the Receipt of Notification on his or her person for the duration of the event. Any conditions issued from the Approving Official shall be documented on the Receipt of Notification.

(c) *Review Timeline.* The Approving Official who receives notice of a prospective public assembly shall provide a clear response to the individual or entity within one (1) business day of receipt.

(d) *Appeals.*

(1) If an event is denied by the Approving Official, the denied individual or entity may appeal within five (5) days after notice of the denial has been received. Within two (2) business days, or such longer period of time agreed to by the applicant, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial or revocation. The applicant shall have the right to present evidence at said hearing. The appeals official shall render a decision on the appeal within two (2) business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.

(2) The decision of the appeals official is subject to review in the Superior Court of Gaston County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within thirty (30) days after the applicant has received notice of the decision. Unless good cause exists to contest a petition for writ of certiorari, the county shall stipulate to certiorari no later than five (5) business days after the petitioner requests such a stipulation. The county shall transmit the record to the court no later than five (5) business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the county shall file its brief within fifteen (15) days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the county shall add three (3) days to this time limit, in accordance with North Carolina Gen. Stat. § 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, then the shorter time period shall control. The North Carolina Rules of Appellate Procedure shall govern an appeal by an applicant from the Superior Court of Gaston County.

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(e) It shall be unlawful for any person to violate any provision of this section or to violate any term or condition of a permit issued pursuant to this section.

Public assembly and parade regulations.

Notwithstanding the 25-person threshold found in the Definitions section of this Article, the following regulations apply to gatherings of any size:

(a) It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a public assembly or parade, or with any person, vehicle, or animal participating or used in the public assembly or parade.

(b) It shall be unlawful for the operator of a motor vehicle to drive between vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) Spectators of a public assembly or parade and persons attending or participating in a public assembly or parade picketing shall be subject to all applicable local, state, and federal laws including, but not limited to, North Carolina Gen. Stat. § 14-277.2 (weapons).

(d) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in accordance with North Carolina Gen. Stat. § 14-288.5 in the event of a riot or disorderly conduct by the assembly of three (3) or more persons.

(e) It shall be unlawful for a public assembly or protest to occur within fifty (50) feet of any County building, including any entrance to a County building for the purpose of ensuring all persons' safe and unimpeded ingress and egress to and from said buildings.

(f) It shall be unlawful for any participant of a public assembly or parade to harass or intimidate any bystanders; it shall also be unlawful for any participant to interfere with the movement of non-participants, including ingress or egress at any County building.

(g) The Sheriff and/or the Chief Deputy Sheriff may revoke a permit at any time in the interest of public safety.

(h) Any and all persons using handheld amplified devices shall keep a distance of at least five (5) feet from another individual while using said device.

(i) It shall be unlawful to place any structure, enclosure, or tent on any County property, except as specifically authorized by the permit.

(j) All public assemblies and parades shall occur between the hours of 6:00 AM and 11:00 PM.

(k) Gaston County law enforcement, in addition to the Approving Official, shall have the authority to designate an area for a public assembly or parade, including but not limited to protest zones. Because conditions on the ground can rapidly change in a way that presents a potential harm or threat to the public's safety, any such designated area is subject to modification by the officials mentioned in this subsection.

(l) Anyone violating this Ordinance, after being told to leave County property, may be charged with trespass.

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Applicability.

This Ordinance only applies to public assemblies on County property. It does not apply to events held at County parks, nor does it apply to events held on public school property, as these respective facilities have rules and regulations separate and apart from this Ordinance that govern the use of such facilities.

No provision of this Ordinance is intended to infringe upon any rights, authority, powers, or duties provided for or otherwise protected by state or federal law.

Certification

I, Donna S. Buff, Clerk to the Gaston County Board of Commissioners, do hereby certify that the above is a true and accurate copy of the FISRT READING of the ordinance amendment entitled To Amend the Gaston County Code of Ordinances, Chapter 8 – Health and Sanitation, Article IV. – Public Assembly and Parade Notification – To Create Article Outlining County Notification Process for Public Assemblies Held on County Property (First Reading), which passed by a vote of 5-0 of the Board of Commissioners on February 23, 2021. SECOND READING required.


Donna S. Buff, Clerk to the Board

SEAL



Gaston County

Gaston County
Board of Commissioners
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County Attorney Board Action

File #: 21-077

Commissioner Johnson - County Attorney - To Amend the Gaston County Code of Ordinances, Chapter 8 - Health and Sanitation, Article IV - Public Assembly and Parade Notification - To Create Article Outlining County Notification Process for Public Assemblies Held on County Property

STAFF CONTACT

Jonathan Sink - County Attorney - 704-866-3400

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

The attached Resolution would protect the public's right to free speech and expression thereof, while also providing law enforcement with sufficient notice to prepare and provide for the safety of the public.

POLICY IMPACT

N/A

ATTACHMENTS

Resolution

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