

# WITHDRAWN



**RESOLUTION TITLE: TO AMEND THE GASTON COUNTY CODE OF ORDINANCES, CHAPTER 8 – HEALTH AND SANITATION, ARTICLE IV. – PUBLIC ASSEMBLY AND PARADE PERMITS – TO CREATE ARTICLE OUTLINING COUNTY PERMITTING PROCESS FOR MASS GATHERINGS HELD WITHIN COUNTY’S JURISDICTION (FIRST READING)**

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 permitting process for mass gatherings held within the County’s jurisdiction; and,

WHEREAS, Gaston County wishes to add an article to this chapter to outline the process for obtaining a permit for a mass gathering in the County.

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 PERMITS**

**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.
- (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) *Permit official* means the Sheriff or sheriff’s deputy designated by the Sheriff as being responsible for issuing and revoking permits under this article. The county manager may designate different persons as the permit official for different categories of permitted events and for different facilities or locations.

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	AFraley	BHovis	KJohnson	TKeigher	JPhibick	RWorley	Note
2021-039	01/26/2021	RW	CB	A	A	A	A	N	AB	A	5 - 1

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(6) *Public assembly* means:

A festival or demonstration of 25 or more people reasonably anticipated to obstruct the normal flow of traffic upon any public street or sidewalk; and a festival or demonstration of 25 or more people in or on Gaston County Courthouse property, the Sheriff's Office Headquarters, the Gaston County Administrative Building, or any other county-owned property.

**Public assembly and parade permits.**

(a) *Permit required.* No public assembly or parade is permitted unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section.

(b) *Permit application.* An application for a public assembly or parade permit shall be made in writing on a form prescribed by the Permit official at least thirty (30) days before the commencement of the event. Notwithstanding the preceding sentence, the permit official shall consider an application that is filed less than thirty (30) 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 application 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 applying (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;

(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;

(6) Such other information, attachments, and submissions that are requested on the application form; and

(7) Payment of a nonrefundable application fee of \$250 for events with less than 500 people or \$750 for events with 500 or more people.

(c) *Permitting criteria.* An application may be denied or revoked for any of the following reasons:

(1) The application is not fully completed and executed;

(2) The applicant has not tendered the required application fee or has not tendered other required user fees, indemnification agreements, insurance certificates, or security deposits within times prescribed;

To Amend the Gaston County Code of Ordinances, Chapter 8 – Health and Sanitation, Article IV. – Public Assembly and Parade Permits – To Create Article Outlining County Permitting Process for Mass Gatherings held within County's Jurisdiction (First Reading)

Page 3

- (3) The application contains a material falsehood or misrepresentation;
- (4) The applicant is legally incompetent to contract or to sue and be sued;
- (5) The applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event;
- (6) The applicant has previously permitted a violation or has violated the terms of a public assembly or parade permit issued to or on behalf of the applicant;
- (7) The applicant has on prior occasions damaged county property and has not paid in full for such damage;
- (8) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;
- (9) The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the county and previously scheduled at or near the same time and place;
- (10) The proposed event would present an unreasonable danger to the public health or safety;
- (11) The proposed event would substantially or unnecessarily interfere with traffic;
- (12) The event would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the event;
- (13) There would not, at the time of the event, be sufficient law enforcement and traffic control officers to adequately protect participants and non-participants from traffic related hazards in light of the other demands for police protection at the time of the proposed event;
- (14) The applicant has not complied or cannot comply with applicable licensure requirements, ordinances, or regulations concerning the sale or offering for sale of any goods or services;
- (15) The use or activity intended by the applicant is prohibited by law;
- (16) For non-First Amendment protected public assemblies or parades, the following criteria shall also apply:
  - a. The cultural and/or educational significance of the event;
  - b. The extent to which the event contributes to the economic revitalization and business development of the county;
  - c. The impact and/or cost of the event to county support services;
  - d. The impact of the event to the public health, safety, and welfare;
  - e. The impact of the event on business and resident populations within or adjacent to the proposed event site;
  - f. The evaluation of any previous event produced by the event organizer with regard to planning, quality, public safety, and payment of invoices;
  - g. The frequency and timing of the event or similar events.

Unless subject to (c)(16), nothing in this section shall authorize the permit official to deny or revoke a permit based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

The permit official may attach reasonable conditions to any permit approval.

(d) *Costs and fees.* The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the county for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers and fire/GEMS personnel, or reimbursing the county

To Amend the Gaston County Code of Ordinances, Chapter 8 – Health and Sanitation, Article IV. – Public Assembly and Parade Permits – To Create Article Outlining County Permitting Process for Mass Gatherings held within County's Jurisdiction (First Reading)

Page 4

for the costs of providing on-duty law enforcement officers and fire/GEMS personnel, to provide internal festival safety and security.

The permit official, in consultation with the Gaston County Sheriff's Office and the Gaston County Fire Marshall, shall determine the number of officers and fire/GEMS personnel needed to appropriately police street closures and for internal safety and security, and the time when such services shall commence and end, taking into consideration the following:

- (1) The proposed location of the special event or route of the parade;
- (2) The time of day that the public assembly or parade is to take place;
- (3) The date and day of the week proposed;
- (4) The general traffic conditions in the area requested, both vehicular and pedestrian. Special attention is given to the rerouting of the vehicles or pedestrians normally using the requested area;
- (5) The number of marked and unmarked intersections along the route requested, together with the traffic control devices present;
- (6) If traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic control devices are to be taken into consideration;
- (7) The estimated number of participants;
- (8) The estimated number of viewers;
- (9) The nature, composition, format, and configuration of the special event or parade;
- (10) The anticipated weather conditions;
- (11) The estimated time for the special event or parade;
- (12) For festivals, whether alcohol will be served, live music offered, or retail sales stations provided, and the number and location of alcohol service stands, music stages, and retail stands.

In addition, for festivals located on County-owned property, the applicant shall reimburse the County for the costs of providing street and sidewalk cleaning, trash receptacle placement, trash removal, and trash disposal.

Notwithstanding the foregoing, the County may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the County desire to provide such support to the public assembly or parade. Such action is not a waiver of a regulatory requirement based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed, but instead is an affirmative act of county association or speech.

(e) *Time and notice of decision.* The permit official shall approve or deny an application within twenty (20) days of receipt. A notice of denial or revocation shall clearly set forth the grounds upon which the permit was denied or revoked and, where feasible, shall contain a proposal for measures by which the applicant may cure any defects in the application or otherwise procure a permit. Where an application is denied because the proposed event would conflict with another event that has or will be approved, the permit official shall propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

(f) *Appeals.*

(1) An applicant may appeal the denial or revocation of an application in writing within ten (10) days after notice of the denial has been received. Within five (5) 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 decision to issue or uphold the denial or revocation shall be based solely on the approval criteria set forth in this section. The appeals official shall render a decision on the appeal within five (5) 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.

(g) 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.**

(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.

To Amend the Gaston County Code of Ordinances, Chapter 8 – Health and Sanitation, Article IV. – Public Assembly and Parade Permits – To Create Article Outlining County Permitting Process for Mass Gatherings held within County's Jurisdiction (First Reading)

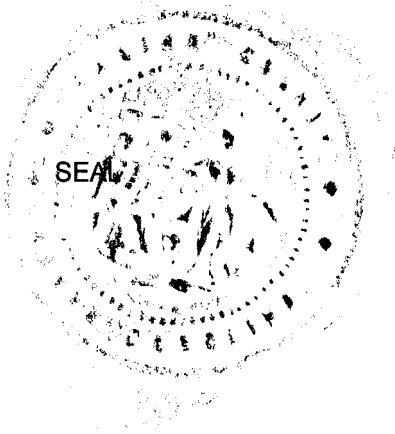
Page 6



Tom Keigher, Chairman  
Gaston County Board of Commissioners

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 FIRST 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 Permits – To Create Article Outlining County Permitting Process for Mass Gatherings held within County's Jurisdiction (First Reading), which passed by a vote of 5-1 of the Board of Commissioners on January 26, 2021. SECOND READING required.



Donna S. Buff, Clerk to the Board



# Gaston County

Gaston County  
Board of Commissioners  
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## County Attorney Board Action

File #: 20-526

Commissioner Worley - County Attorney - To Amend the Gaston County Code of Ordinances, Chapter 8 - Health and Sanitation, Article IV. - Public Assembly and Parade Permits - To Create Article Outlining County Permitting Process for Mass Gatherings Held Within County's Jurisdiction (First Reading)

### STAFF CONTACT

Jonathan Sink - County Attorney - 704-866-3400

### BUDGET IMPACT

N/A

### BUDGET ORDINANCE IMPACT

N/A

### BACKGROUND

The attached Resolution would add an article to Chapter 8 of the Gaston County Code of Ordinances to outline procedures for obtaining a permit for a mass gathering.

### POLICY IMPACT

Modifies Chapter 8 of the Gaston County Code of Ordinances.

### ATTACHMENTS

Resolution

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	TKeigher	TPhilbeck	RWorley	Vote
2021-039	01/26/2021	RW	CB	A	A	A	A	N	AB	A	5 - 1

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