

ORDINANCE NO. 01-04

AN ORDINANCE AMENDING ORDINANCE NO. 01-03 TO INCLUDE ADDITIONAL GUIDELINES FOR PICKETING AND PARADE ACTIVITIES AND SPECIFIC TIMES FOR PICKETING AND GUIDELINES FOR THOSE ENGAGED IN SAID ACTIVITIES DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

SECTION 1: DEFINITIONS.

(a) Chief of Police means the Chief of Police of the City of Cammack Village.

(b) City means the City of Cammack Village.

(c) Parade means any march, demonstration, procession, or motorcade consisting of persons, animals, or vehicles 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.

(d) Parade or public assembly permit means a permit is required by this Ordinance.

(e) Person means any person, firm, partnership, association, corporation, company or organization of any kind.

(f) Public assembly means any meeting, demonstration, picket line, rally or gathering of more than twenty-five (25) persons for a common purpose as a result of prior planning that interferes with the normal flow or regulation of pedestrians or vehicular traffic or occupies any public area in a place open to the general public.

(g) Sidewalk is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

(h) Street is 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, or median strip thereof.

SECTION 2: PERMIT REQUIRED. No person shall engage in or conduct any parade or public assembly unless a permit is issued by the Chief of Police.

SECTION 3: EXCEPTIONS. This Ordinance shall not apply to the following:

(a) Funeral processions;

(b) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;

(c) A governmental agency acting within the scope of its functions; and

(d) Spontaneous events occasioned by news or affairs coming into public knowledge within three (3) days of such public assembly, provided that the

organizer thereof gives written notice to the City at least twenty-four (24) hours prior to such parade or public assembly.

SECTION 4: APPLICATION.

(a) A person seeking a parade or public assembly permit shall file an application with the Chief of Police on forms provided by such officer and the application shall be signed by the applicant under oath.

(b) For single, non-recurring parades or public assemblies, an application for a permit shall be filed with the Chief of Police at least ten (10) and not more than one hundred eighty (180) days before the parade or public assembly is proposed to commence. The Chief of Police may waive the minimum ten (10) day filing period 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, and the Chief of Police determines that the waiver will not present a hazard to public safety.

(c) For parades or public assemblies held on a regular or recurring basis at the same location, an application for a permit covering all such parades or assemblies during that calendar year may be filed with the Chief of Police at least sixty (60) and not more than one hundred eighty (180) days before the date and time at which the first such parade or public assembly is proposed to commence. The Chief of Police may waive the minimum sixty (60) day period after due consideration of the factors specified in subsection (b) above.

(d) 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 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;

(3) The requested date of the parade or public assembly;

(4) The route to be traveled, including starting point and the termination point;

(5) 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;

(6) The hours when such parade or public assembly will start and terminate;

(7) 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;

(8) The location by street of any assembly areas for such parade or public assembly;

(9) The time at which units of the parade or public assembly will begin to assemble at any such area;

(10) The intervals of space to be maintained between units of such parade or public assembly;

(11) If the parade or public assembly is designated to be held by, or on behalf of, any person or organization other than the applicant, the applicant for such permit shall file a notarized letter from the person, or the president of the organization, with the Chief of Police authorizing the applicant to apply for the permit on his behalf;

(12) The type of public assembly, including a description of activities planned during the event;

(13) 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;

(14) The approximate number of participants (spectators are by definition not participants);

(15) The approximate number of spectators;

(16) A designation of any public facilities or equipment to be utilized; and

(17) Any additional information that the Chief of Police finds reasonably necessary to a fair determination as to whether a permit should issue.

SECTION 5: FEES.

(a) A non-refundable fee of \$50.00 to cover administrative costs of processing the permit shall be paid to the City of Cammack Village by the applicant when the application is filed.

(b) If the application is for the use of any City property or if any City services shall be required for the parade or public assembly, the applicant shall pay, prior to issuance of a permit, the charges for those services in accordance with a schedule of service costs approved by the City Council by resolution.

SECTION 6: POLICE PROTECTION.

(a) The Chief of Police shall determine whether and to what extent additional police services are 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 expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use the streets and sidewalks. The speech content of the event shall not be a factor in determining the amount of police service. 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 services for the public assembly are deemed necessary by the Chief of Police, he shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police services deemed necessary by the Chief of Police at the sole expense of the applicant.

(b) 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 police services provided by the City.

SECTION 7. STANDARDS FOR ISSUANCE.

(a) The Chief of Police shall issue a permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(1) The conduct of 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;

(2) The conduct of the parade or public assembly will not require the diversion of so great a number of City police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City;

(3) The concentration of persons, animals, and vehicles at public assembly points of the parade or public assembly will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly;

(4) The conduct of the parade or public assembly is not reasonably likely to cause injury to persons or property;

(5) 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;

(6) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;

(7) There are sufficient parking places near the site of the parade or public assembly to accommodate the number of vehicles reasonably expected;

(8) The applicant has secured the police protection, if any, required under Section 6.

(9) 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 signed identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the parade;

(10) No parade or public assembly permit application for the same time and location is already granted or has been received and will be granted;

(11) No parade or public assembly permit application for same time but location is already granted 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

(12) 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.

(b) No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a City street, sidewalk or right-of-way unless advance approval for the erection or placement of the structure is obtained from the City Council.

SECTION 8. NON-DISCRIMINATION. The Chief of Police shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this Ordinance based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

SECTION 9. NOTICE OF DENIAL OF APPLICATION. The Chief of Police shall act promptly upon a timely filed application for a parade or public assembly permit but in no event shall grant or deny a permit less than forty-eight (48) hours prior to the event. If the Chief of Police disapproves the application, he shall notify the applicant either by personal delivery or certified mail at least forty-eight (48) hours prior to the event of his action and state the reasons for denial.

SECTION 10. ALTERNATIVE PERMIT.

(a) 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 (5) days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police.

(b) The 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 Ordinance.

SECTION 11. APPEAL PROCEDURE.

(a) Any applicant shall have the right to appeal the denial of a parade or public assembly permit to the City Council. The denied applicant shall make the appeal within five (5) days after receipt of the denial by filing a written notice with the Chief of Police and a copy of the notice with the City Clerk. The City Council shall act upon the appeal at the next scheduled meeting following receipt of the notice of appeal.

(b) In the event that the City Council rejects an applicant's appeal, the applicant may file an immediate request for review with a court of competent jurisdiction.

SECTION 12. NOTICE TO CITY AND OTHER OFFICIALS. Immediately upon the issuance of a parade or public assembly permit, the Chief of Police shall send a copy thereof to the following:

- (a) The Mayor;
- (b) The City Attorney;

- (c) The Fire Chief; and
- (d) The Director of the Department of Public Works.

SECTION 13. CONTENTS OF PERMIT. 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 parade 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 Ordinance.

SECTION 14. DUTIES OF PERMITTEE.

(a) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(b) The parade or public assembly chairman or other person heading such activity shall carry the parade or public assembly permit upon his person during the conduct of the parade or public assembly.

SECTION 15. PROHIBITIONS. The following prohibitions shall apply to all parades and public assemblies:

(a) It shall be unlawful for any person to state, 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 inch (1/4") or less in thickness and two inches (2") or less

in width, or if not generally rectangular in shape, such object shall not exceed three-fourths inch (3/4") 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, or cardboard material;

(g) It shall be unlawful for any person participating in a parade or public assembly to utilize sound amplification equipment at decibel levels that exceed those limits imposed by City Ordinance; and

(h) 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.

SECTION 16

The provisions are hereby approved as by the City of Cammack Village, Arkansas, parades and public assemblies:

(a) Definition:

(1) *Directed, focused, or targeted* means that a particular private residence of any of its occupants has been made the sole object of picketing and that the picketing takes place directly in front of the particular private residence of the private residence on either side of the targeted residence.

(2) *Picket or picketing* means the practice of standing, marching, or patrolling by one or more persons inside of, in front of, or about any premises for the purpose of persuading an occupant of such premises or to protest some action, attitude or belief.

(3) *Private residence* means a single-family, duplex, or other multi-family dwelling.

(4) *Public meeting* means a gathering announced in advance to the public, or a portion of the public, which is held to discuss matters of public interest and which is attended by at least three (3) people who do not reside where the assembly is held.

(5) *Residential zoned district* means a section of the City which the Planning Commission has designated for some type of residential zoning classification.

(b) *Picketing of Private Residence Prohibited.* It shall be unlawful for any person to engage in picketing, which is directed, focused or targeted solely at a particular private residence located in a residential zoned district and which takes place directly in front of a particular private residence or the private residence on either side of the targeted residence.

(c) *Exemptions.* Nothing in this Ordinance shall prohibit:

(1) The picketing of a residence which is also used as the occupant's sole place of business;

(2) The picketing of a residence used as a place of public meeting;

(3) A person or group of persons from marching in a residential zoned area without stopping at any particular private residence; or

(4) A person or group of persons from marking in a residential zoned area on a defined route without stopping at any particular private residence or residences.

(d) **Time Resolution.** Picketing in a residential zoned areas is permitted only during the following hours:

(1) Monday through Friday:
9:00 a.m. to 12 noon
1:00 p.m. until 4:00 p.m.
7:00 p.m. to 9:00 p.m.

(2) Saturday
9:00 a.m. to 5:00 p.m.; and

(3) Sunday
1:00 p.m. to 5:00 p.m.

(e) **Warning.** Before a person may be arrested for violating subsection (b) above, the person must have been ordered to move, disperse, or otherwise remedy the violation by:

(1) A police officer;

(2) A member of the fire department; or

(3) A person with authority to control the use of the residence which is the focus or target of picketing.

(f) **Defenses.** It is a defense to any prosecution under this Ordinance that a person:

(1) Was not given a warning as provided in subsection (e); or

(2) Promptly obeyed a warning as provided in subsection (e).

(g) **Penalty for Violation.** Any person convicted of violating this Ordinance shall, be subject to pay a fine not to exceed two hundred dollars (\$200.00), or to be imprisoned for a period not to exceed six (6) months , or to both imprisonment and fine.

SECTION 17. PUBLIC CONDUCT DURING PARADES AND PUBLIC ASSEMBLIES.

(a) 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.

(b) No driver of a vehicle shall drive between the vehicles or persons compromising a parade or public assembly when such vehicles or persons are in motion and are conspicuously designed as a parade or public assembly.

(c) 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 the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this Ordinance.

SECTION 18. REVOCATION OF PERMIT. 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 issuance as set forth in this Ordinance 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.

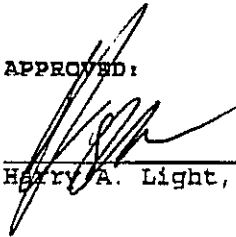
SECTION 19. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 20: EMERGENCY CLAUSE. The City Council for the City of Cammack Village finds and determines that an ordinance establishing for parade and public assemblies is necessary for the orderly administration and operation of the City of Cammack Village, Arkansas in that no such applicable ordinance exists; that these events require the utilization of City property and services and can disrupt the flow of traffic and use of property within the City and that an emergency is declared to exist and this ordinance being necessary for the preservation of the public peace, health and safety be in full force and effect on or after October 1, 2001.

ADOPTED:

DATE: 10/9/01

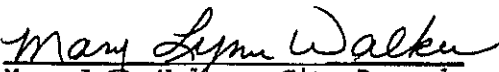
APPROVED:



Harry A. Light, Mayor

ATTEST:

DATE: 10/9/01



Mary Lynn Walker, City Recorder