

**Town Council of the Town of Rutherfordton**

**Rutherford County, North Carolina**

**Ordinance No. 11-17**

**An Ordinance amending, Chapter 26, Article VII ("Parades & Demonstrations")  
of the General Code of Ordinances of the Town of Rutherfordton.**

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**BE IT ORDAINED** by the Town Council of the Town of Rutherfordton, that the General Code of Ordinances be amended as follows:

**Part I.** Chapter 26 Article VII be replaced with the following amended text:

**Sec. 26-208. Definitions.**

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

*Parade* means any assemblage or gathering of two (2) or more persons for any march, ceremony, show, exhibition, or procession of any kind on a public street, for which the Permit Applicant, as hereinafter defined, has received approval for a street closure from the Town Council and/or the North Carolina Department of Transportation pursuant to its then applicable Special Event Guidelines. For purposes of this Article, Street Closure shall mean the temporary blocking or prohibiting of vehicular traffic on any public street.

*Demonstration* means any assemblage, gathering, picket, or rally of ten (10) or more persons for the purpose of protesting, opposing, supporting, promoting, or publicizing any issue, matter, or event, or who otherwise gather to publicly express any position, viewpoint, belief, or opinion, and occurring in a public place other than on a public street.

*Counter-Demonstration* means any assemblage, gathering, picket, or rally of ten (10) or more persons which is conducted in direct response or opposition to a Parade or Demonstration for which a permit has been properly issued.

*Permit Applicant* means the individual person who submits and signs, whether individually or in a representative capacity, an application for a permit for a parade or demonstration, as set forth in this Article, and who shall be conclusively presumed to be the person in charge of and responsible for the conduct of the parade or demonstration.

*Public Place* means any street, sidewalk, lawn, alley, park, building, or any other space which is publically or governmentally owned or controlled.

**Sec. 26-209. Permit Required.**

It shall be unlawful for any persons to organize, conduct, or participate in any manner in any parade or demonstration upon any public place within the town, including, without limitation, public streets, sidewalks, alleys, or parks, unless a permit therefor has been issued by the Chief of Police pursuant to this Article, and, upon the issuance of such permit as set forth in this Article, the Permit Applicant must at all times be present at the parade or demonstration with such permit in his/her possession.

**Sec. 26-210. Permit – Application**

Any person, group, entity, or organization desiring a permit for a parade or demonstration shall submit a written application for same to the office of the Chief of Police, which written application must be received by the Chief of Police no less than twenty-four (24) hours prior to the time for such parade or demonstration, and shall include the following information:

- (1) The name, address, telephone number, and e-mail address of the Permit Applicant;
- (2) The time and place for the commencement of the parade or demonstration;
- (3) The estimated duration of the of the parade or demonstration;
- (4) A detailed and specific listing of any and all public places which may be affected by the parade or demonstration, to include the place or places in which it is to be held, as well as the specific route(s) to be used if the parade or demonstration is to move at any time from its place of commencement to another location; and
- (5) An estimated number of participants for the parade or demonstration, including a statement of whether minors below the age of eighteen (18) will be permitted to participate.

**Sec. 26-211. Permit – Issuance**

Upon the timely receipt from a Permit Applicant of an application for a permit for a parade or demonstration, which satisfies the requirements of Section 26-210, the Chief of Police shall issue such permit *unless* he/she finds any of the following:

- (1) The parade or demonstration is to commence before sunrise or terminate after sunset;

(2) The parade or demonstration is to be conducted at the same time and place as another parade or demonstration for which a permit has been previously issued, or is to be conducted at the same time and place as any town-sponsored or town-supported event or festival, or any other event specifically approved by the Town Council, or would otherwise conflict or interfere with such events;

(3) The parade or demonstration will cause an unreasonable interruption of or interference with the safe movement of pedestrian or vehicular traffic in the Town, or will, in the sole discretion of the Chief of Police, otherwise create any condition which constitutes a threat to the public safety or welfare, which conditions may include but are not limited to the following:

a. The parade or demonstration is reasonably likely to incite, encourage, cause, or result in violence or damage to property, or is reasonably likely to result in any riot or similar public disturbance;

b. The parade or demonstration will require an unreasonable and unsafe diversion of the Town's law enforcement and emergency resources such that adequate police, fire, and/or other emergency protection for the Town may be compromised; or

c. The parade or demonstration will interfere with the movement of police, fire, and/or other emergency vehicles, or will otherwise cause or contribute to the interruption or unreasonable delay of any services provided by the Town to its residents.

(4) The parade or demonstration is for the purpose of promoting or advertising any business, product, service, or other commercial enterprise, or is otherwise intended to generate private profit; or

(5) The Permit Applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event, has previously permitted a violation or has violated the terms of a parade or demonstration permit issued to or on behalf of the Permit Applicant, or has on prior occasions damaged town property or private property and has not paid in full for such damage;

#### **Sec. 26-212. Permit – Revocation**

At any time after the issuance of a permit for a Parade or Demonstration pursuant to Section 26-211, the Chief of Police may revoke the permit on the following grounds:

(1) If he/she finds that the information supplied in the permit application was incorrect or incomplete;

(2) If the Parade or Demonstration exceeds the scope of the permit as to time or place, or there is any failure to otherwise comply with the terms and conditions of the permit;

- (3) If the Permit Applicant is not present at the Parade or Demonstration, or, though present, does not have the permit in his/her possession;
- (3) If the Parade or Demonstration results in or creates any of the conditions upon which the Chief of Police could have denied the permit under Section 26-211; or
- (4) If any of the prohibited activities set forth in Section 26-213 are found to have occurred.

### **Sec. 26-213. Prohibited Activities**

The following acts or activities, when occurring in conjunction with or as a part of any Parade or Demonstration, or engaged in by any participant in a Parade or Demonstration, are expressly prohibited and are a violation of this Article:

- (1) The carrying on or about the person of any firearm or other weapon of any kind, and any other items which might be used as deadly weapons, including but not limited to bows, knives, blackjacks, night sticks, or similar objects, as well as pepper spray, tear gas, or any similar spray, gas, or irritant, unless expressly authorized or exempted by North Carolina General Statutes;
- (2) The presence of any vicious dog or other vicious animal, whether leashed or unleashed;
- (3) The use of megaphones, bullhorns, microphones, speakers, or other means of voice amplification, as well as any other horns, sirens, or noisemakers, which create noise of a level that violates the Town's noise ordinance;
- (4) Any activity which constitutes a breach of the peace;
- (5) Any activity which results in or creates any of the conditions which would have been grounds for the denial of the permit for the Parade or Demonstration under Section 26-211;
- (6) Interfering with, or in any way blocking or impeding entry of any person into a business, commercial enterprise, privately-owned property, or public/government property or building;
- (7) Interfering with, impeding, or blocking the free passage of pedestrian or vehicular traffic on any street, public area, or sidewalk; and
- (8) Violation of any Town ordinance, or state or federal law.

### **Sec. 26-214. Counter-Demonstrations.**

This Article applies in all respects to Counter-Demonstrations, and a permit shall be required for such Counter-Demonstrations. The Chief of Police may, in his/her sole discretion, deny a permit for a Counter-Demonstration under Section 26-211(2), or choose to issue a permit notwithstanding the provisions of Section 26-211(2). Non-permitted and/or spontaneously occurring Counter-Demonstrations may be dispersed at any time at the discretion and direction of the Chief of Police.

**Sec. 26-215. Interference with Parades or Demonstrations.**

No person or group of persons shall hamper, obstruct, impede, or interfere in any way with a properly permitted Parade or Demonstration, or a properly permitted Counter-Demonstration. No person involved with or participating in any Counter-Demonstration, whether permitted or non-permitted, shall hamper, obstruct, impede, or interfere in any way with the Parade or Demonstration which the Counter-Demonstration is opposing or to which the Counter-Demonstration is responding.

**Sec. 26-216. Exceptions.**

This Article shall have no application to the following:

- (1) Festivals and events sponsored or supported by the Town, or any other event or gathering which takes place with the express approval of the Town Council;
- (2) Funeral processions; and
- (3) Any governmental agency or department acting within the scope of its functions.

**Sec. 26-217. Penalties.**

Any person found to be in violation of this Article shall be guilty of a Class 3 misdemeanor, punishable by a fine of at least \$50.00, but not more than \$500.00, and/or imprisonment of not more than 30 days, or such other penalties as may be consistent with N.C.G.S. 160A-175.

**Part II.** All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Part III.** This Ordinance shall become effective upon its adoption.

**ADOPTED** this 7<sup>th</sup> day of December, 2016 by the Town Council of the Town of Rutherfordton, North Carolina.

ATTEST:

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MAYOR Jimmy Dancy

Pat Hardage, Town Clerk

APPROVED AS TO FORM:

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David Lloyd, Town Attorney