



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

Ordinance: 16-2006-ORD

File Number: 16-0126

Enactment Number: 16-2006-ORD

AN ORDINANCE REGULATING USE OF THE PUBLIC RIGHTS OF WAY IN THE CITY OF FOLEY

WHEREAS, the public rights of way in the City of Foley are primarily for the pedestrian and vehicular movement of people and goods; and

WHEREAS, from time to time there are parades, demonstrations, and other gatherings of people in the public rights of way in the City of Foley; and

WHEREAS, the City of Foley has found and determined that certain regulations of these events are necessary to promote the health, safety, order, and welfare in the community; and

WHEREAS, the City of Foley has further found and determined that the sidewalks in the northwest, southwest, and southeast quadrants of the intersection of Alabama Highway 59 and U.S. Highway 98 in downtown Foley are uniquely and particularly unsuitable for all types of demonstrations and gatherings of people at certain times of day due to the close proximity of the travel and parking portions of the roadway to the sidewalks, the width of the sidewalks, the close proximity of the buildings to the sidewalks, the amount of traffic, the flow of traffic, the tight turning maneuvers for motorists, and the pedestrian use of the sidewalks; and

WHEREAS, the City of Foley has further found and determined that the medians between divided streets, highways and roads are also particularly unsuitable for all types of demonstrations and gatherings of people at any time; and

WHEREAS, the City Council of the City of Foley, Alabama has further found and determined that it is in the best interest of the public and necessary to promote and protect the public health, safety and welfare of the community to amend its existing regulations and to create new regulations regulating parades, gatherings, public expressions, and demonstrations on public rights of way; and

WHEREAS, the City of Foley's regulations shall apply equally to all persons regardless of the content or type of public expression and regardless of the possible public reaction to the same;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA AS FOLLOWS:

1. That the following shall be enacted and codified in Chapter 14 in a new Article of the Code of the City of Foley:

SECTION 1. DEFINITIONS. For purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning herein ascribed. Unless inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and

words of any particular gender include the other gender. The word "shall" is always mandatory and not merely directory.

- A. "Police Chief" shall mean the then serving or acting Chief of Police of the City of Foley, Alabama or his/her designee.
- B. "Demonstration" shall mean any form of march, ceremony, speech, show, exhibition, pageant, footrace, procession, protest, parade, public expression, demonstration, rally, picketing, solicitation, assembly, convention, gathering, fundraising, or similar conduct designed or having the intent to attract attention, regardless of the number of people participating. The term "Demonstration" does not apply to any motorized or human powered vehicular procession that takes place on a designated portion of the public right of way reserved or marked for motor vehicle use or travel and which proceeds as a part of the normal and orderly flow of traffic such as a bicycle, motorcycle, or vehicular procession that does not disrupt the flow of traffic.
- C. "Public Right of Way" shall mean the entire width of all public ways, streets, roads, and highways in the City of Foley, including but not limited to the sidewalks, grassed areas, on-street parking areas, lanes for travel, lanes for turning, shoulders, and medians.
- D. "Street Closure Permit" shall mean a permit issued pursuant to this Ordinance to temporarily close all or a portion of one or more streets, roads or highways to vehicular traffic.
- E. "Median" shall mean the portion of a Public Right of Way that is located in between two opposing traveled lanes of traffic.

SECTION 2. DEMONSTRATION PROHIBITIONS.

- A. All Demonstrations are prohibited in the following areas of all Public Right of Ways at all times:
 - 1. In a portion of a Public Right of Way reserved or marked for motor vehicle use or travel;
 - 2. In a portion of a Public Right of Way reserved or marked for motor vehicle parking; or
 - 3. In a Median.
- B. All Demonstrations are prohibited between 8:00 a.m. and 5:00 p.m. local time in the first fifty (50) linear feet of the sidewalks, as measured from the edge of the curb of the intersecting street, that are located in the northwest, southwest, or southeast quadrants of the intersection of Alabama Highway 59 and U.S. Highway 98 in downtown Foley, which areas shall be identified with signs and shall be appropriately marked.

- C. Except as and where prohibited in subsections A and B above, Demonstrations can occur in a Public Right of Way without a Street Closure Permit at any time.

SECTION 3. STREET CLOSURE PERMITS. Anyone desiring to organize, participate in, or cause a Demonstration in a Public Right of Way where prohibited by this Ordinance may apply for a Street Closure Permit which, if issued, will permit and allow the Demonstration to occur in accordance with the terms of the Permit.

SECTION 4. APPLICATIONS FOR A STREET CLOSURE PERMIT. A person or entity seeking a Street Closure Permit shall file an application with the Police Chief not less than ten (10) days before the date on which the Demonstration is proposed or requested to take place. The Permit application shall contain the following information:

- The name, address, telephone number, facsimile number (if any), and e-mail address (if any) of the person applying for the Permit (the "Applicant");
- The name, address, and telephone number of the person or organization on whose behalf the Demonstration is being organized (the "Organizer");
- The name, address and mobile telephone number of the person who shall be present at all times during the Demonstration (the "Event Manager");
- The date(s) when the Demonstration is requested to occur;
- The times at which the Demonstration will start and terminate;
- The location of the Demonstration including, if applicable, the route over which it will travel (for parades, road races, etc.);
- A description of the maximum amount of the Public Right of Way the Demonstration will occupy or use, if less than all; and
- An estimate of the number of people that may participate in or attend the Demonstration.

SECTION 5. STREET CLOSURE PERMIT FEE. Applications for a Street Closure Permit shall not require a fee, and the Applicant shall not be required to pay a fee as a condition of receiving a Permit.

SECTION 6. STANDARDS FOR ISSUANCE OF STREET CLOSURE PERMITS. The Police Chief shall issue a Street Closure Permit within five (5) business days of his/her receipt of the completed application if the intended Demonstration does not violate Section 7 of this Ordinance. The Police Chief shall deny the Street Closure Permit application if the intended Demonstration is prohibited by Section 7 of this Ordinance. If the Permit application is denied, the Police Chief shall provide the Applicant with a written explanation of how the application or the proposed Demonstration violates Section 7 of this Ordinance. The Police Chief shall communicate his/her decision and the reasons for the decision in

writing to the Applicant by facsimile (when available), or by e-mail (when available), and by depositing the same in the U.S. Mail. When issuing a Street Closure Permit, the Police Chief shall issue the Permit for the requested dates, times and locations, but for parades, marches, road races and similar types of Demonstrations which process along Public Rights of Way, the Police Chief can vary the starting point, ending point, and/or route of the Demonstration for traffic and public safety reasons only.

SECTION 7. STREET CLOSURE LIMITATIONS. The Police Chief shall deny all Street Closure Permit applications which violate one or more of the following:

1. United States, State and County highways may not be closed or partially closed in the same area more than one (1) time in each quarter of the first three quarters in the calendar year (January-March; April-June; July-September). United States, State and County highways may not be closed or partially closed in the same area more than two (2) times in the fourth quarter (October-December) of the calendar year. Priority shall be given to the first application received.

2. No street may be closed or partially closed in the same area more than one (1) time each month. Priority shall be given to the first application received.

3. No street may be closed or partially closed if it would deprive a property owner or tenant of a means of vehicular ingress and egress to their property through the use of public roads or rights of way without their consent.

4. United States, State and County highways may not be closed or partially closed during evacuations, emergencies, or on the weekends or holidays of Memorial Day, Labor Day, or the Fourth of July.

SECTION 8. APPEAL PROCEDURE. Any person aggrieved by the decision of the Police Chief shall have the right to appeal to the Mayor of the City of Foley. The Mayor shall make a decision and communicate his/her decision in writing to the appealing party and the Applicant (if different), by facsimile (when available), e-mail (when available), and by depositing in the U.S. Mail within two days of receiving a notice of the appeal. Any party dissatisfied with the results of an appeal to the Mayor may file the appropriate action or writ in the Circuit Court for Baldwin County seeking appropriate equitable relief.

SECTION 9. PUNISHMENT FOR VIOLATIONS. Any person or entity violating any provision of this Article shall, except as provided by law, be punished pursuant to Section 1-8 of the Code of Ordinances for the City of Foley. Notwithstanding the foregoing, anyone participating in a unlawful Demonstration who is also violating another Ordinance of the City of Foley, or state law, may be punished pursuant to Section 1-8 of the Code of Ordinances for the City of Foley of as provided by law.

2. That Article IV of Chapter 11 of the Code of the City of Foley (Sections 11-95 through 11-110) and Ordinance Number 14-1007 are hereby repealed.

3. That if any term or provision of this Ordinance is held by a court of competent jurisdiction to be invalid, void or unenforceable, then such term or provision shall be deemed severed and the remainder of the terms and provisions of this Ordinance shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

4. That this ordinance shall become effective immediately upon its publication as required by law.

PASSED, APPROVED AND ADOPTED this 21st day of March, 2016.

President's Signature _____

Date _____

Attest by City Clerk _____

Date _____

Mayor's Signature _____

Date _____