

ORDINANCE NO. 193

AMENDMENTS TO TITLE FIVE OF THE DALTON GARDENS MUNICIPAL CODE

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, TO PROVIDE FOR STANDARDS AND PERMITTING PROCEDURES FOR PARADES, PROVIDE FOR AN EFFECTIVE DATE, AND SEVERABILITY.

BE IT ORDAINED by the Mayor and City Council of Dalton Gardens, Idaho:

- Section 1: Title
- Section 2: Authority
- Section 3: Purpose
- Section 4: Definitions
- Section 5: Permit Required
- Section 6: Permit Procedures
- Section 7: Permit Standards
- Section 8: Severability
- Section 9: Conflicting Ordinance Provisions
- Section 10: Effective Date

SECTION 1: TITLE

This Ordinance shall be known as the PARADE ORDINANCE OF THE DALTON GARDENS MUNICIPAL CODE.

SECTION 2: AUTHORITY

This Ordinance is authorized under the provisions of Idaho Code Title 50-314.

SECTION 3: PURPOSE: The purpose and intent of a Parade Ordinance is to allow free assembly, insure the public health and safety and minimize traffic impediments.

SECTION 4: DEFINITIONS:

For the purpose of this Title, certain words and terms are defined as follows:

PARADE: Any dash, demonstration, march, marathon, meeting, motorcade, parade, procession, public assembly, race, rally, or like activity consisting of persons, animals, or vehicles or a combination thereof upon the streets within the city with an intent of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of traffic upon the streets. A “parade” for purposes of this chapter shall include the time period beginning two (2) hours prior to the beginning of the parade and shall conclude one hour after the end of the parade.

PERMIT: The permit as required by this chapter for activities including, but not necessarily limited to, a dash, demonstration, march, meeting, motorcade, parade, procession, public

assembly, rally, race or marathon which for purposes of this chapter are collectively referred to as an activity requiring a permit. An approved application will serve as the permit.

PERMITTEE: Any person, firm, partnership, association, corporation, company or organization of any kind granted a permit for an activity regulated by this chapter.

PERSON: Any person, firm, partnership, association, corporation or company of any kind.

PUBLIC ASSEMBLY: Any meeting, demonstration, rally or gathering of more than twenty five (25) persons for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any street. A "public assembly" for purposes of this chapter shall include the time period beginning two hours prior to the beginning of the public assembly and shall conclude one hour after the end of the public assembly.

SECTION 5 – PERMIT REQUIRED

- A. A person or organization seeking a permit shall obtain and file an application with the city clerk on forms provided by such officer.
- B. An application for a permit shall be filed with the city clerk as soon as the applicant has sufficient information to complete an application and at least thirty five (35) days and not more than one year before the parade, special event or public assembly is proposed to commence. For good cause shown, applications may be accepted after the above limits. Good cause shall be shown when the parade, special event or public assembly is related to an unanticipated or recently announced or occurring event and the application for permit or public assembly can be processed in compliance with the provisions of this chapter in sufficient time to allow the parade, special event or assembly to proceed as scheduled.
- C. Discrimination Prohibited: There shall be no discrimination in granting, denying, or conditionally granting permits under this chapter based upon the content of the applicant's message or political, religious, ethnic, racial, disability, or gender related grounds.
- D. Application Form; Approval: The city clerk may request such information from the applicant as is necessary in their sole discretion to determine whether to approve the application. The information may be requested in the permit application form, through written instructions available from the city clerk, or through written or oral inquiries addressed to the applicant. The time for considering the permit shall be extended by the time taken by the applicant in responding satisfactorily to any inquiry.
- E. Permit Denial: The city clerk may deny a permit if the applicant or the person on whose behalf the application is made has on prior occasions made material misrepresentations regarding the nature or scope of a parade, special event or public assembly previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant; or if the applicant or the person on whose behalf the application was made has on prior occasions damaged city property and not paid in full for such damage or has other unpaid debts to the city clerk. Further, the city clerk may deny a permit if the proposed parade, special event or public assembly is for the primary purpose of commercial benefit, by individual business and it

would disrupt streets or public places ordinarily subject to great congestion during the time of the special event, or would require such a diversion of police protection that it would deny reasonable police protection to the city. The application may be denied, unless the applicant modifies the proposed special event to satisfactorily deal with these concerns in a manner reasonably acceptable to the police chief or his designee.

- F. Additional Reasons For Denial; Halting Of Assembly: A permit may be denied where the city clerk determines that the parade would unreasonably disrupt traffic or public services or where there is clear and convincing evidence that the applicant intends to engage in violence and that the time, place, and manner of the event cannot be adjusted such that the city will be able to control such potential violence without injury to bystanders, participants, or police. A parade, special event or public assembly may be halted by the city clerk if at any time participants fail to conform to the permit or create an imminent risk of violence.
- G. Appeals - Any applicant shall have the right to appeal the denial of a permit or imposition of conditions to the city council. The denied applicant shall make the appeal within forty eight (48) hours after receipt of the denial by filing a written notice with the city clerk. The city council shall attempt to reach a determination prior to the planned date and time of the parade but at its next regular scheduled meeting if it can be properly noticed.

SECTION 6 - CONTENTS OF PERMIT APPLICATION:

- A. Each permit application shall state at least the following, and the applicant shall adhere to any commitment made:
1. The full name, street address, telephone number, e-mail address, and facsimile number, if any, of the person or organization sponsoring the parade, special event or public assembly
 2. The name, street address, telephone number, e-mail address, and facsimile number, if any, of the person in charge of the parade, special event or public assembly;
 3. The date when the parade, special event or public assembly is to be conducted;
 4. The name of the parade, special event or public assembly, if any;
 5. The time the parade, special event or public assembly will begin to form, and the time the parade, special event or public assembly will begin movement;
 6. The place the parade, special event or public assembly will form;
 7. The route of the parade, special event or public assembly;
 8. The approximate number of participants who will participate in the parade, special event or public assembly, the maximum number who will be allowed to participate and the estimated number of spectators;
 9. The number of animals, floats, automobiles, or other vehicles in the parade, special event or public assembly;

10. The place the parade, special event or public assembly will disband;
11. The prior parade, special event or public assembly history of the applicant, including the number of permits previously applied for;
12. A detailed plan for controlling disorderly or violent conduct, for maintaining traffic flow to commercial and other establishments, for sanitary and medical facilities, and for cleanup;
13. Whether the organizers and participants are indigent or any other reason why any applicable fees or deposit requirement should be reduced or eliminated; and
14. Any other information required by the city clerk to perform the duties described herein.

SECTION 7 - STANDARDS FOR ISSUANCE:

A. Statement of Purpose: The purpose of these regulations is to set forth the standards of issuance for a parade, special event or public assembly permit. It is further the purpose of these regulations to:

1. Assure that emergency services such as police, fire, and ambulance services are available for a parade, special event or public assembly taking place within the corporate limits of the city of Dalton Gardens;
2. Assure that emergency services such as police, fire, and ambulance services are not unreasonably inhibited in their ability to travel on and cross public streets by parades, special events or public assemblies;
3. Assure that business activities in Dalton Gardens are not unreasonably impacted by parades, special events or public assemblies; and
4. Assure that traffic is not unreasonably disturbed by parades, special events or public assemblies.
5. Weapons: It shall be unlawful for any person to have in his possession or to have in any vehicle any weapon while participating in or attending a parade or public assembly. Possession Unlawful: It shall be unlawful for any person to have in his possession or to have in any vehicle at a point within one thousand feet (1,000') of a parade or public assembly, or within one thousand feet (1,000') of the perimeter of a parade or public assembly from the beginning to the end of the route, in the case of a moving parade or public assembly any weapon. This section shall not apply to any person in possession of any weapon in his private dwelling or place of business. Any campers, mobile homes or trailers lawfully parked on private property within one thousand feet (1,000') of the parade or public assembly site shall also be excluded.
 - a. Exemptions: The following individuals, while acting lawfully and within authority, are exempted from the provisions of this section: Law Enforcement, City clerk officers, Officers and soldiers of the United States armed forces and the Idaho

national guard; United States reserve officer training corps cadets; and Members of any United States military veterans' organizations that are national in scope, chartered by the United States congress and have a tradition of participating in parades and public assemblies.

6. Before any permit is issued to an applicant, there shall be filed with the city clerk proof of liability insurance naming the city as one of the insured's in the amount of one million dollars (\$1,000,000.00) for property damage or bodily or personal injury, death or loss as a result of any one occurrence or accident regardless of the number of persons injured or the number of claimants. A certificate of insurance providing at least thirty (30) days written notice to the city prior to cancellation of the policy shall be filed in the office of the city clerk.

SECTION 8 - TIME, PLACE, AND MANNER RESTRICTIONS:

The following prohibitions and regulations shall apply to activities requiring a permit:

- A. It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly permitted activity requiring a permit to knowingly fail to comply with any condition of the permit.
- B. No permit shall be issued for an activity to commence before seven o'clock (7:00) A.M. and shall terminate prior to ten o'clock (10:00) P.M.
- C. Permit Issuance: Only one parade or special event or public assembly permit will be granted for the same calendar day. The city clerk shall issue the permit on a first come, first served basis.
- D. All parade participants shall assemble for the parade at the time and location designated in the parade permit and shall disperse from the parade route immediately after the conclusion of the parade.
- E. The maximum time necessary for completion of the complete activity requiring a permit may not exceed five (5) hours unless otherwise authorized by the City Council. City street setup and disbursement, including barricades, shall not be included in the five (5) hour activity time limit.
- F. Parade, special event or assembly organizers shall assure to the satisfaction of the city clerk that participants are not in possession of firearms or other weapons unless specifically approved by the city clerk, do not intend to engage in violence or other unlawful conduct, and do not intend to incite others to do so.
- G. The permit may limit or condition the number of participants, the length of the event, the time and location of the event, or the manner of the event where necessary to prevent violence; to avoid serious inconvenience to those needing access to commercial or public services; to avoid interference with movement of police or fire vehicles or ambulances and where such limitations or conditions provide ample opportunity for exercise of protected rights.

SECTION 9 - SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.

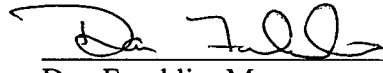
SECTION 10 - CONFLICTING ORDINANCE PROVISIONS

If any conflict occurs between this Ordinance and provisions of the other City Ordinances, the more restrictive Ordinance shall take precedence.

SECTION 11 - EFFECTIVE DATE

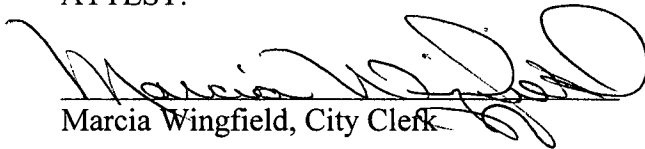
This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 1st day of February, 2007



Dan Franklin, Mayor

ATTEST:



Marcia Wingfield, City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Gretchen Heidrich

being first duly sworn upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

Legal Notice

3. The _____

of which the annexed is a printed copy, was published in the regular Wednesday issue of said newspaper for one consecutive week commencing on the 7 day of Feb, 2007, and ending on the 7 day of Feb, 2007, and such publication was made as often during said period as said daily newspaper was regularly issued.

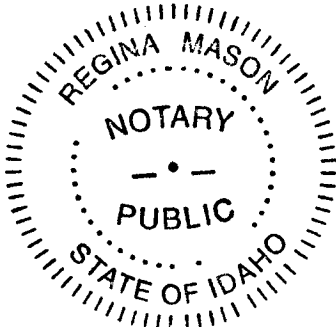
4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

On this 7 day of Feb in the year of 2007 before me, a Notary Public, personally appeared Gretchen Heidrich, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

Notary Public for the State of Idaho, residing at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/09



CITY OF DALTON GARDENS, IDAHO SUMMARY OF ORDINANCE NO. 193
PARADE ORDINANCE OF THE DALTON GARDENS MUNICIPAL CODE
AN ORDINANCE OF DALTON GARDENS, IDAHO, WHICH PROVIDES FOR STANDARDS AND PERMITTING PROCEDURES FOR PARADES, AND PROVIDES FOR AN EFFECTIVE DATE AND SEVERABILITY.

Pursuant to Idaho Code §50-901A, Ordinance No. 193 of the City of Dalton Gardens is summarized as follows:

- A. This is an Ordinance of the City of Dalton Gardens, Idaho.
- B. The Ordinance Number is 193.
- C. The descriptive title of the ordinance is as set forth above.
- D. This Ordinance regulates certain public assemblies, parades, marches, races and other activities upon the streets of the city, which tend to interfere with the normal flow of traffic on City streets. The ordinance sets forth a method to obtain a permit for such activity; prohibits discrimination in granting or denying a permit; and sets forth an appeal process if a permit is denied. The ordinance sets forth the application criteria and standards for issuing the permit, together with restrictions which can be placed on the permit.

The effective date of the Ordinance shall be upon passage and publication as provided under Idaho law. A full text of the ordinance is available at the Dalton Gardens City Hall.

DATED this 1st day of February, 2007.

Dan Franklin, Mayor
ATTEST:
Marcia Wingfield, Clerk
Legal 576
February 7, 2007