

CITY OF DALTON GARDENS, IDAHO

ORDINANCE NO. 269

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 3, CHAPTER 7 TO REPEAL AND REPLACE THE EXISTING PROVISIONS FOR PARADES, PUBLIC EVENTS AND ASSEMBLY, PROVIDING SEVERABILITY, REPEALING CONFLICTING PROVISIONS, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALTON GARDENS, IDAHO:

SECTION 1: AMENDMENTS TO TITLE 3, CHAPTER 7

REPLACE THE EXISTING CHAPTER WITH THE FOLLOWING:

PUBLIC EVENTS AND ASSEMBLY

3-7-1: Definitions

3-7-2: Permit Required

3-7-3: Exceptions to Permit Requirement

3-7-4: Application and Proper Notice

3-7-5: Contents of Permit Application

3-7-6: Application Fee

3-7-7: Standards for Issuance

3-7-8: Notice of Determination of Application

3-7-9: Conditional Approval

3-7-10: Appeal Procedure

3-7-11: Duties of Permittee

3-7-12: Time, Place and Manner Restrictions

3-7-13: Violation; Penalties

3-7-14: Emergency Cancellation; Termination

3-7-1: DEFINITIONS:

The following words and phrases when used in this chapter shall have the meanings set out in this section:

APPLICANT: Any person applying for a "permit" as defined herein. The true applicant for any such permit shall be the sponsoring entity whether such sponsoring entity is an individual person, a corporation, a partnership or other legal entity of any type.

CITY CLERK: The clerk of the city or the clerk's authorized designee.

EVENT: A gathering or meeting of 50 or more people with or without vendors, including weddings, birthdays, reunions, and class reunions.

FIRE DEPARTMENT: Kootenai County Fire and Rescue.

PARADE: Any dash, demonstration, march, marathon, meeting, motorcade, parade, procession, race, rally, or like activity consisting of multiple persons, animals, or vehicles or a combination thereof within the city with an intent of attracting public attention or achieving some other expressive purpose which might interfere with or has the potential to interfere with the normal flow or regulation of traffic upon the streets.

PERMIT: The permit as required by this chapter for a "parade", "public assembly" or "event" as defined herein. 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, company or organization of any kind.

PUBLIC ASSEMBLY: Any meeting, demonstration, rally or gathering of 50 or more 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 or other public property managed by the city of Dalton Gardens, including parks.

SHERIFF: The Kootenai County sheriff or the sheriff's authorized designee.

SIDEWALK: Any area or way set aside or open to the general public for purpose of pedestrian traffic, whether or not it is paved.

STREET: Any place or way set aside or open to the general public for primary purposes of vehicular traffic, including any berm or shoulder, parkway, right of way, or median strip thereof.

### **3-7-2: PARADES PROHIBITED**

Parades, as defined in this chapter, are prohibited within the City of Dalton Gardens.

### **3-7-3: PERMIT REQUIRED:**

No person shall engage in, participate in, or conduct any "public assembly" or "event" as defined by this chapter unless a permit has been issued by the city clerk for the date and location involved.

### **3-7-4: EXCEPTIONS TO PERMIT REQUIREMENT:**

This chapter shall not apply to the following:

- A. Funeral processions;
- B. Government agencies acting within the scope of their function;
- C. Regular park usage by family, charitable, fraternal or other groups in the ordinary traditional use of the park, when the anticipated number of participants is less than fifty (50) where no vendors are present;
- D. Community block watch events that are organized and working with Kootenai County Sheriff's Office or city government;
- E. Students going to and from classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities;
- F. Lawful activities occurring within the right of way of the city of Dalton Gardens.
- G. Other activities sponsored by the city of Dalton Gardens in its municipal capacity or in conjunction with other government agencies.

**3-7-5: APPLICATION AND PROPER NOTICE:**

A person seeking an event permit shall obtain an application form and file a completed application with the city clerk on forms provided.

An application for a permit shall be filed with the city clerk as soon as the applicant knows sufficient information to complete an application and at least thirty (30) days and not more than one year before an event or public assembly is proposed to commence.

The time frame set forth herein may be waived in the discretion of the city clerk for good cause and upon a finding that such waiver would not compromise the ability of the city to prepare for the activity for which the permit is requested.

Good cause may be shown when the event or public assembly is related to an unanticipated or recently announced or occurring event and the application for permit can be processed in compliance with the provisions of this chapter in sufficient time to allow the event to proceed as scheduled without causing fiscal or operational hardship to the city's operations.

This section is subject to amendment or replacement at any time, and any application for an event or public assembly permit shall be issued pursuant to the ordinance in effect at the time of application, but conduct during the event or public assembly shall be governed by standards of behavior legally required at the time the event occurs.

**3-7-6: CONTENTS OF PERMIT APPLICATION:**

Each permit application shall state at least the following, and the applicant shall adhere to and be bound by any commitments made in an application submittal:

A. The full name, street address, telephone number, e-mail address, and facsimile number, if any, of the person or organization sponsoring the event or public assembly;

B. The name, street address, telephone number, e-mail address, and facsimile number, if any, of the person in charge of the event or public assembly;

C. The date when the event or public assembly is to be conducted;

D. The name of the event or public assembly, if any;

E. The time the event or public assembly will begin to form, and the expected duration of the event or public assembly;

F. The place of the event or public assembly;

G. The approximate number of participants, not including spectators, who will participate in the event or public assembly and the maximum number who will be allowed to participate;

H. The prior event or public assembly history of the applicant within Dalton Gardens, or the state of Idaho history if no Dalton Gardens history exists, including the number of permits previously applied for;

I. A thoroughly documented plan for controlling disorderly or violent conduct if such might reasonably be expected, a plan for maintaining traffic flow to residential and commercial properties, and other establishments, a plan for sanitary and medical facilities, and for cleanup;

M. Attach the required certificate of insurance, if applicable, as set forth elsewhere within this chapter;

N. Identify any requested exception from any requirement established by this chapter premised upon the unique circumstances associated with the event or public assembly for which application has been made;

O. Any other information required by the city clerk or sheriff to enable them to understand the impacts of the proposed event or public assembly.

**3-7-7: APPLICATION FEE:**

A nonrefundable application fee in an amount set by resolution of the city council to cover the expenses incident to processing the application for an event or public assembly permit shall be paid to the city clerk at the time of filing of the application. This fee is not refundable unless the application is withdrawn on the same date it is submitted.

**3-7-8: STANDARDS FOR ISSUANCE:**

A. Statement Of Purpose: The purpose of these regulations is to set forth the standards of issuance for an 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 an event or public assembly taking place within the corporate limits of the city of Dalton Gardens; and

2. Assure that emergency services such as police, fire, and ambulance services are not unreasonably inhibited in their ability to travel on and to cross public streets or property used by events or public assembly; and

3. Assure that private business activities in Dalton Gardens are not unreasonably impacted by events or public assembly; and

4. Assure that traffic on public streets is not unreasonably disturbed or disrupted by events or public assembly; and

5. Assure that public safety can be maintained; and

6. Assure that public property can be protected from harm.

B. Permit Issuance: Only one event or public assembly permit will be granted for the same calendar day unless absolute assurance can be provided that the permitted events will not conflict and that public service obligations will not exceed the fiscal and operational limits of city personnel. The city clerk shall issue the permit on a first come, first served basis. Except for the city and other public agencies, individual persons/organizations/corporations shall be limited to one event or public assembly per month. Prior to issuance of the permit for any group over 50 people where vendors will be present for a public event or public assembly, the applicant shall provide a certificate of liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00). Private events such as weddings, birthdays or family reunions shall not be required to provide insurance.

C. Health District Requirement: No permit shall be granted unless the applicant obtains the approval of Panhandle Health District indicating that the applicants for the permit have complied with the health requirements of such district for like or similar facilities. Such approval shall include the type and adequacy of water supply to be provided, the type and adequacy of toilet, waste collection and washing facilities to be provided, and if there is food or drink served on the premises, the type and adequacy of food and drink preparation, and food and drink service facilities to be provided.

D. Application Form; Approval: Affected city departments, if any, may request such information from the applicant as necessary to demonstrate compliance with applicable

provisions of law. Information may be requested on the permit application form, through written instructions communicated from the city clerk, or through written or oral inquiries addressed to the applicant by any designated city staff member. The time for considering the permit may be extended by the time taken by the applicant in responding satisfactorily to any inquiry, not to exceed five (5) business days.

E. Discrimination Prohibited: There shall be no discrimination in granting, denying, or conditionally granting permits under this chapter based upon statutorily protected or constitutionally guaranteed individual rights.

F. 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 an 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.

G. Additional Reasons For Denial; Halting Of Event: A permit may be denied where the city clerk, upon the advice of the City Council, sheriff, or fire department determines that the event or public assembly would unreasonably disrupt traffic or public services or where there is clear and convincing evidence that the applicant, not opponents of 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. An event or public assembly may be halted by the sheriff or fire department if at any time participants fail to conform to the permit or if an imminent risk of violence arises in the course of the event or public assembly. No application for a permit shall issue if the applicant fails to demonstrate compliance with all applicable provisions of law, including the requirements of this chapter.

### **3-7-9: NOTICE OF DETERMINATION OF APPLICATION:**

The city clerk shall act upon the application for a permit promptly after the filing thereof accompanied by the applicant's submission of complete information. The clerk shall make a reasonable effort to notify the applicant, by facsimile, personal service, or certified mail, of any notice of denial or conditional approval and the reason(s) for denial or conditions as soon as practical upon the clerk's decision. Such decision shall be made with a promptness adequate to allow an opportunity for appeal pursuant to provisions of this chapter.

### **3-7-10: CONDITIONAL APPROVAL:**

The city clerk may authorize the conduct of the event or public assembly requiring a permit at a date, time, place, or in a manner different from that named by the applicant and may tender a conditional permit setting forth proposed modified terms which differ from those set forth in the application. An applicant desiring to accept a conditional permit shall, within five (5) days after notice of the action of the city clerk, file a written notice of acceptance with the city clerk. If the applicant fails to provide written notice of acceptance of the conditional permit within the time prescribed, the event or public assembly shall not be held.

### **3-7-11: APPEAL PROCEDURE:**

Any applicant shall have the right to appeal the clerk's denial of a permit or imposition of conditions to the city council. The denied applicant must make any appeal within forty eight (48) hours after receipt of the denial or conditional approval from the city clerk by filing a written notice of appeal with the city clerk setting out the reasons therefor in writing. The city council will hear the appeal at a regular or special meeting, when available, and reach a determination prior to the planned date and time of the event or public assembly, and in each instance no more than ten (10) business days after the date the notice of appeal is filed with the city clerk unless a quorum of the city council cannot be obtained.

### **3-7-12: DUTIES OF PERMITTEE:**

A permittee hereunder shall comply with all permit conditions, the City's facility use policies and with all federal, state and local laws.

The following shall be attached to the application for the event or public assembly:

A. Approval of the Panhandle Health District indicating that the applicant has met all of the health requirements of the district for like or similar facilities.

B. A performance bond may be required to guarantee damage repair to any structure within the public right of way or other public property, if in the opinion of the city clerk the nature of the activity is likely to cause damage to city property.

### **3-7-13: 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 event or public assembly to commence before seven o'clock (7:00) A.M. All events and public assemblies shall terminate prior to eleven o'clock (11:00) P.M.

C. All participants shall assemble for the event or public assembly at the time and location designated in the permit and shall disperse from public property after the conclusion of the event or public assembly.

D. Event or assembly organizers shall assure to the satisfaction of the sheriff: 1) do not intend to engage in violence or other unlawful conduct, and 2) do not intend to incite others to do so.

E. 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 constitutionally protected rights.

F. The permit may require that the applicant provide water supply and/or toilet, waste collection and washing facilities for participants and attendees of the event or public assembly. Permittee is required to work with the health district if additional portable facilities are required.

**3-7-14: VIOLATION; PENALTIES:**

Any person who violates or fails to comply with any of the provisions of this chapter or who, having obtained a permit hereunder, fails to comply with the conditions set forth in the approved permit is guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in subsection 1-4-1A of this code.

**3-7-15: EMERGENCY CANCELLATION; TERMINATION:**

Notwithstanding issuance of a permit pursuant to provisions of this chapter, the mayor is authorized to revoke an event or public assembly permit if the mayor determines, based upon competent evidence, that the conduct of the event or public assembly would bring about violence which would, with reasonable certainty, result in injury to the public or to public safety personnel or which would result in damage to private property. Any such cancellation shall be communicated to the sponsor/applicant as soon as possible after such determination has been made.

**SECTION 2. SEVERABILITY.**

If any provision of this chapter, or its application to any person or circumstances, be declared unconstitutional or invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter or the application of the provisions to other persons or circumstances.

Nothing in this chapter shall be construed as preventing the adoption of more restrictive provisions set forth in other sections of the Dalton Gardens Municipal Code. The more restrictive provisions of the code shall control.

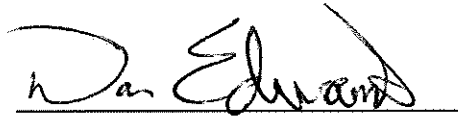
**SECTION 3. REPEAL OF CONFLICTING PROVISIONS.**

All provisions of the ordinances of the City of Dalton Gardens which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 4. EFFECTIVE DATE.**

Upon passage and approval and publication in one (1) issue of the Coeur d'Alene Press, the official newspaper of the City of Dalton Gardens, Idaho, this Ordinance shall be in full force and effect.

PASSED under suspension of the rules at which a roll call vote was taken at regular meeting of the city council of the City of Dalton Gardens, Kootenai County, Idaho, this 6<sup>th</sup> day of May, 2021.



DAN EDWARDS, Mayor

ATTEST:

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TERESA L. JANZEN, Deputy Clerk