ORIGINAL

ORDINANCE NO. 459

AN ORDINANCE OF THE CITY OF RATHDRUM, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING FOR REGULATION OF PARADES AND PUBLIC ASSEMBLIES WITHIN THE CITY, DEFINING TERMS, REQUIRING PERMITS AND PROVIDING EXCEPTIONS, PROVIDING FOR APPLICATION PROCEDURES INCLUDING PAYMENT OF APPLICATION FEES, ESTABLISHING STANDARDS FOR PERMIT ISSUANCE, REQUIRING NOTICE OF DETERMINATION REGARDING APPLICATIONS, PROVIDING FOR CONDITIONAL APPROVALS, PROVIDING AN APPEAL PROCEDURE, SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, ESTABLISHING DUTIES OF A PERMITTEE, ESTABLISHING TIME, PLACE AND MANNER RESTRICTIONS, DEFINING VIOLATIONS, PROVIDING THAT A VIOLATION IS A MISDEMEANOR, AUTHORIZING EMERGENCY CANCELLATION; PROVIDING SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

Section 1: That a new chapter be added to the Rathdrum City Code entitled PARADES AND PUBLIC ASSEMBLIES as follows:

A, 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.

CHIEF OF POLICE: The Rathdrum Chief of Police or the Chief's authorized.

CITY ADMINISTRATOR: The city administrator of the city.

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

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 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" or "public assembly" 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 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 Rathdrum, including city parks and playfields.

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, excluding highways within the control of the Idaho Department of Transportation.

B. PERMIT REQUIRED:

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

C. EXCEPTIONS TO PERMIT REQUIREMENT:

This chapter shall not apply to the following:

1. Funeral processions;
2. Government agencies acting within the scope of their function;
3. Regular park usage for family gatherings in the ordinary traditional use of the park;
4. Activities sponsored by the city of Rathdrum in its municipal capacity.

D. APPLICATION AND PROPER NOTICE:

A person seeking a parade/public assembly 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 a parade or public assembly is proposed to commence. The time frame set forth herein may be waived in the discretion of the mayor or city administrator 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 parade 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 or public assembly to proceed as scheduled without causing fiscal or operational hardship to the city's operating departments.

E. 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:

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

3. The date when the parade or public assembly is to be conducted;

4. The name of the parade or public assembly, if any;

5. The time the parade or public assembly will begin to form, and the time the parade or public assembly will begin movement;

6. The place the parade or public assembly will form;

7. The route of the parade or public assembly selected;

8. The place the parade or public assembly will disband;

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

10. The number of marchers, animals, floats, automobiles, or other vehicles in the parade or public assembly;

11. The prior parade or public assembly history of the applicant within Rathdrum, or the state of Idaho history if no Rathdrum history exists, including the number of permits previously applied for;

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

13. Attach the required certificate of insurance as set forth elsewhere within this chapter;

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

15. Any other information required by the city clerk or chief of police to enable them to understand the impacts of the proposed parade or public assembly.

F. 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 parade or public assembly permit shall be paid to the city clerk at the time of filing of the application. No fee shall be charged for city-sponsored or city-endorsed activities.

G. STANDARDS FOR ISSUANCE:

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

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 parades or public assemblies; and to

3. Assure that private business activities in Rathdrum are not unreasonably impacted by parades or public assemblies; and to

4. Assure that traffic on public streets is not unreasonably disturbed or disrupted by parades or public assemblies; and to

5. Assure that public safety can be maintained; and to

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

B. Permit Issuance: Only one parade 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 should issue permits on a first come, first served basis. Certain community festivals and celebrations conducted or supported by the city of Rathdrum are hereby accorded priority exclusive reservation of their traditional dates unless or until support by the city is withdrawn.

C. Health District Requirement: No permit shall be granted for an event that includes food preparation subject to Panhandle Health District or state regulations, unless the applicant informs Panhandle Health District indicating what common facilities will be provided to meet health requirements of the district for food vendors if vendor participation is expected. Such approval shall include the type and adequacy of water supply to be provided, the type and adequacy of toilet, and waste collection and washing facilities to be provided. If food or drink is expected to be served on the premises, the type and adequacy of food and drink preparation, and food and drink service facilities to be provided shall be the responsibility of respective vendors or food service organizers.

D. Application Form; Approval: Affected city departments 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 city administrator, 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. Unlawful 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 a parade 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 Assembly: A permit may be denied where the city clerk, upon the advice of the chief of police, determines that the parade or 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. A parade or public assembly may be halted by the chief of police if at any time participants fail to conform to the permit or if an imminent risk of violence arises in the course of the parade 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.

H. 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.

I. CONDITIONAL APPROVAL:

The city clerk may authorize the conduct of the parade 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 no less than five (5) business 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 parade or public assembly shall not be held.

J. 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 seven (7) business days after transmittal 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 and reach a determination prior to the planned date and time of the parade/public assembly, and in each instance no more than seven (7) 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.

K. DUTIES OF PERMITTEE:

A permittee hereunder shall comply with all permit conditions and with all federal, state and local laws.

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

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. If sponsor operated motor vehicles are involved, proof of automobile liability insurance from an insurance company authorized to do business in Idaho. This coverage shall be in the amount required by Idaho Code. The city clerk may require a higher limit when in the opinion of the city clerk or chief of police the event demands a higher limit. Such reasons for higher limits shall be set forth in writing.

C. 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.

D. A certificate of liability insurance for the special event showing the City as an additional insured, and evidencing that the applicant has liability insurance in the amount of $500,000 for any damage to persons or property caused as a result of the event. Such special event coverage that includes auto coverage may satisfy the sponsor-operated vehicle coverage requirement set forth in subsection B.

L. 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 a parade or public assembly to commence before eight o'clock (8:00) A.M. All parades and/or public assemblies shall terminate prior to eleven o'clock (11:00) P.M. No parade requiring a permit shall exceed three (3) hours in length. City street setup and dispersal, including barricade removal, shall not be included in the activity time limit.

C. All parade participants shall assemble for the parade at the time and location designated in the parade permit and shall disperse from public property after the conclusion of the parade in order that regular traffic patterns might be restored.

D. Parade or assembly organizers shall assure to the satisfaction of the chief of police: 1) participants are not in possession of firearms or other weapons unless specifically approved by the chief of police, 2) do not intend to engage in violence or other unlawful conduct, and 3) 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 parade or public assembly

M. VIOLATION - PENALTIES:

Any person who fails to obtain a permit for a parade or assembly regulated hereby, who knowingly fails to comply with any other 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 punishable by fine of up to one thousand dollars ($1000) or by imprisonment for up to 180 days, or by a combination of fine or imprisonment up to the maximums established hereby. Additionally, enforcement may initiated by any civil legal action in pursuit of any lawful remedy available to the city.

N. EMERGENCY CANCELLATION; TERMINATION:

Notwithstanding issuance of a permit pursuant to provisions of this chapter, the mayor is authorized to revoke a parade/public assembly permit if the mayor determines, based upon competent evidence, that the conduct of the parade 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.

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

Section 3. Repeal of Conflicting Provisions.

All provisions of the current Rathdrum Municipal Code or ordinances of the City of Rathdrum which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. Effective Date.

This ordinance shall be effective upon passage and publication as provided by law.

Enacted by the city council as an ordinance of the City of Rathdrum on the 14 day of March, 2006.

Approved by the Mayor on the 14 day of March, 2006.

CITY OF RATHDRUM

Brian Steele, Mayor

ATTEST:

Judy Hollenbeck, City Clerk