

ORDINANCE 2009-9

**AN ORDINANCE TO PROVIDE STANDARDS FOR SPECIAL EVENTS IN
THE CITY OF DAHLONEGA, GEORGIA**

WHEREAS, the City of Dahlonega has a significant governmental interest in protecting an individual's right to exercise his or her First Amendment right of free speech and the City recognizes that public sidewalks, streets and parks are traditional public forums in which expressive activity occurs; and

WHEREAS, the City of Dahlonega has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order while preserving traditional public forums; and

WHEREAS, the City of Dahlonega has a significant governmental interest in maintaining the free flow of traffic on public streets and sidewalks, preserving access to public places and building and protecting property; and

WHEREAS, the City of Dahlonega has a significant governmental interest in protecting residential privacy and protecting unwilling listeners within their homes from the intrusion of unwanted speech; and

WHEREAS, the City of Dahlonega may impose reasonable and constitutional regulations for the use of public streets, sidewalks, and parks during a picket, public assembly, or parade to further the above-referenced governmental interests, without regard to the purpose or content of the message but to preserve the public peace and to avoid unreasonable conflicts with other legitimate use of such property.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Dahlonega, Georgia, that:

ARTICLE I.
Picketing.

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:

Picket or picketing, means to make a public display or demonstration of sentiment for or against a person or cause, including protesting which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive.

Sidewalk means that portion of the street right-of-way which is designated for the use of pedestrians and may be paved or unpaved and shall include easements and rights of ways.

Street means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter or right, for the purposes of vehicular traffic, including that portion that is known as the shoulder of the roadway and the curb. The terms highway and street and their cognates are synonymous as used herein.

Notice of Intent to Picket.

(a) *Notification Required.* The organizer of a picket that the organizer knows, or should reasonably know, that will be by a group of twenty (20) or more individuals shall give notice of intent to picket to the Lumpkin County Sheriff and the City of Dahlonega City Manager or their designees at least forty-eight (48) hours before the beginning of the picket. The notice of intent to picket shall include the following information:

- (i) the name, address and contact telephone number for the organizer of the picket
- (ii) the name, address and contact telephone number of the person giving notice of intent to picket if different from the organizer;
- (iii) the name of the organization or group sponsoring the picket;
- (iv) the location where the picket is to take place;
- (v) the date and time the picket will begin and end; and
- (vi) the anticipated number of participants, and the basis of which this estimate is made.

(b) *Receipt of Notification.* Upon notice of intent to picket given in accordance with subsection (a), the City Manager or designee shall immediately issue a receipt of notice. The

receipt shall contain all information stated in the notice. The organizer of a picket shall be responsible for maintaining the receipt, and shall present it when so requested by a law enforcement officer or other city official.

(c) It shall be unlawful for any person to violate any provision of this section.

Picketing Regulations.

(a) Picketing may be conducted on public sidewalks or other city-owned property normally used or reserved for pedestrian movement and shall not be conducted on the portion of the public roadway used primarily for vehicular traffic.

(b) Notwithstanding subsection (a), picketing may not be conducted at a:

- (i) City-controlled park or on other property during a festival that has been permitted at that particular property or when that property has been otherwise reserved for private use;
- (ii) on a median strip; or
- (iii) within 200 feet of a dwelling or building which is the focus or target of a protest or gathering.

(c) Picketing shall not disrupt, block, obstruct or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic into any driveway, pedestrian entrance, or other access to buildings, which abut the public sidewalks.

(d) Written or printed placards or signs, flags, or banners carried by individuals engaged in picketing and/or carried on the sidewalks or other city-owned areas, shall not exceed three square feet as to allow safe and unobstructed passage of pedestrian or vehicular traffic. The staff or pole on which a sign, flag, or banner may be carried shall be made of corrugated material, plastic, or wood, and shall not exceed forty inches in length and shall not be made of metal or metal alloy. If made of wood, the staff or pole shall be no greater than three-fourths inch in diameter at any point. A staff or pole must be blunt at both ends.

(e) If more than one group of picketers desire to picket at the same time at or near the same location, law enforcement officers may, without regard to the purpose or content of the message, assign each group a place to picket in order to preserve the public peace. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group of picketers arrived first.

(f) Spectators of pickets shall not physically interfere with individuals engaged in picketing. Picketers and spectators of pickets shall not speak fighting words or threat that would tend to provoke a reasonable person to a breach of the peace.

g) Picketers and picketing shall be subject to all applicable local, state and federal laws.

(h) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in the event of a riot or disorderly conduct, or otherwise enforce local and state law.

(i) It shall be unlawful for any person to violate any provision of this section.

Article II Public Assemblies and Parades.

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

Appeals Official means the city manager, or his designee.

Demonstration means a public display of sentiment for or against a person or cause, including protesting

Festival means a concert, fair, exhibit, promotion, community event, block party, or similar event.

Parade means an athletic event, march, ceremony, pageant, procession or other similar activity consisting of persons, animals, vehicles or things, or any combination thereof, that disrupts the normal flow of traffic upon any public street. A funeral procession is not a parade.

Permit Official means the person or persons designated by the city manager as being responsible for issuing permits under this article. The city manager may designate different persons as the permit official for different categories of permitted events and for different facilities or locations.

Public Assembly means:

- (a) a festival or demonstration which is reasonably anticipated to obstruct the normal flow of traffic upon any public street and that is collected together in one place; and
- (b) a festival on any City-controlled Park.

Public Assembly and Parade Permits.

(a.) *Permit Required* No public assembly or parade is permitted unless a permit allowing such activity has been obtained pursuant to this section.

(b.) *Permit Application.* An application for a public assembly or parade permit shall be made in writing on a form prescribed by the Permit Official at least thirty (30) days before the commencement of the event. Notwithstanding the preceding sentence, the Permit Official shall consider an application that is filed less than thirty (30) days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event, or where other good and compelling causes are shown. The Permit Official shall rule on the application within four business days from its receipt. If the Permit Official fails to issue such a ruling, the application is deemed granted.

The application must contain the following:

- (i) the name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is applying (collectively Applicant);
- (ii) the name, address, and telephone number for and individual who shall be designated as the responsible planner and on-site manager for the event;
- (iii) the date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband, and any requested street closings;
- (iv) the anticipated number of persons and vehicles, and the basis on which this estimate is made;
- (v) a list of the number and type of animals that will be at the event and all necessary health certificates for such animals;
- (vi) such other information, attachments, and submissions that are requested on the application form; and
- (vii) payment of a non-refundable application fee.

(c.) *Permitting Criteria.* To the extent permitted by law, an application may be denied if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. An application for permit may also be denied for any of the following reasons:

- (i) the application for permit (including any required attachments and submissions) is not fully completed and executed;
- (ii) the Applicant has not tendered the required application fee or has not tendered other required user fees, indemnification agreements, insurance certificates, or security deposits within times prescribed;
- (iii) the application contains a material falsehood or misrepresentation;
- (iv) the Applicant is legally incompetent to contract or to sue and be sued;
- (v) the Applicant has on prior occasions made material misrepresentations regarding the nature or scope of an event;
- (vi) the Applicant has previously violated the terms of a public assembly or parade permit issued to or on behalf of the applicant;
- (vii) the Applicant has on prior occasions damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts to the City;
- (viii) a fully executed prior application for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple simultaneous events;
- (ix) the proposed event would conflict with previously planned programs organized,

- conducted, or sponsored by the City and previously scheduled at or near the same time and place;
- (x) the proposed event would present an unreasonable danger to the public health or safety;
 - (xi) the proposed event would substantially or unnecessarily interfere with traffic;
 - (xii) the event would likely interfere with the movement of emergency equipment and police protection in areas contiguous or in the vicinity of the event;
 - (xii) there would not, at the time of the event, be sufficient law enforcement and traffic control officers to adequately protect participants and non- participants from traffic related hazards in light of the other demands for police protection at the time of the proposed event;
 - (xiv) the Applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations concerning the sale or offering for sale of any goods or services;
 - (xv) the use or activity intended by the Applicant is prohibited by law;
 - (xvi) for non-First Amendment protected public assemblies or parades, the following criteria shall also apply:
 - a. the cultural and/or educational significance of the event;
 - b. the extent to which the event contributes to the economic revitalization and business development of the City;
 - c. the impact and/or cost of the event to the City support service;
 - d. the impact of the event to the public health, safety and welfare;
 - e. the impact of the event on business and resident populations within or adjacent to the proposed event site;
 - f. the evaluation of any previous event produced by the event organizer with regard to planning, quality, public safety, and payment of invoices; and
 - g. the frequency and timing of the event or similar events

Unless subject to (c)(xvi), nothing in this section shall authorize the Permit Official to deny a permit based upon political, social, or religious grounds or reasons, or based upon the content of the views expressed.

The Permit Official may attach reasonable conditions to any permit approval.

(d) *Costs and Fees.* The Applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the City for the costs of providing on-duty law enforcement officers, to appropriately police street closures. For festivals, the Applicant shall be additionally responsible for hiring and paying off-duty law enforcement officers, or reimbursing the City for

the costs of providing on-duty law enforcement officers, to provide internal festival security and for hiring and paying necessary emergency medical technicians.

The Permit Official, in consultation with the Lumpkin County Sheriff's Office, shall determine the number of officers needed to appropriately police street closures and for internal security, and the number of emergency medical technicians needed, and the time when such services shall commence and end, taking into consideration the following:

- (i) the proposed location for the special event or route of the parade;
- (ii) the time of day that the public assembly or parade is to take place;
- (iii) the date and day of the week proposed;
- (iv) the general traffic conditions in the area requested, both vehicular and pedestrian. Special attention is given to the rerouting of the vehicles or pedestrians normally using the requested area;
- (v) the number of marked and unmarked intersections along the route requested, together with the traffic control devices present;
- (vi) if traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic control devices are to be taken into consideration;
- (vii) the estimated number of participants;
- (viii) the estimated number of viewers;
- (ix) the nature, composition, format, and configuration of the special event or parade;
- (x) the anticipated weather conditions
- (xi) the estimated time for the special event or parade;
- (xii) for festivals, whether alcohol will be served, live music offered, or retail sales stations provided, and the number and location of the alcohol service stands, music stages, and retail stands.

In addition, the Applicant shall reimburse the City for the costs of providing street and sidewalk cleaning, trash receptacle placement, trash removal, and trash disposal.

(e) It shall be unlawful for any person to violate any provisions of this section or to violate any term or condition of a permit issued pursuant to this section.

Public Assembly and Parade Regulations.

(a) It shall be unlawful to unreasonably hamper, obstruct, impede, or interfere with a public assembly or parade, or with any person, vehicle, or animal participating or used in the public assembly or parade.

(b) It shall be unlawful for the operator of a motor vehicle to drive between vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) Spectators of a public assembly or parade and persons attending or participating in a public assembly or parade picketing shall be subject to all applicable local, state and federal laws.

(d) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in the event of a riot or disorderly conduct or otherwise enforce the local and state laws.

Ancillary Permits.

During the time in which municipally permitted festivals, events, and parades are being conducted within the city of Dahlonega an Ancillary Permit fee shall be charged in the amount of \$100.00 per day to certain persons or entities seeking to operate booths or exhibits out of doors or outside the permit area reserved for the person or entity which the permit under this Ordinance is issued. An Ancillary Permit shall be charged to any such person other than: (1) a merchant, entity or individual who is supervised and approved by a permittee under the terms of a validly issued City of Dahlonega permit issued under this Ordinance or (2) a merchant, entity or individual operating under and in conformity with a regular validly issued City of Dahlonega occupation tax license at the location identified on said license and in compliance with all zoning codes and regulations of the City of Dahlonega.

SO ORDAINED this 2nd day of November, 2009 by the Mayor and Council of the City of Dahlonega.

By: Gary McCullough
- Mayor

Attest: Janet Jarrard
City Clerk