

ORDINANCE #2004-04

BOISE COUNTY, IDAHO

**AN ORDINANCE LICENSING AND REGULATING SPECIAL EVENTS OR
MASS GATHERINGS AND PROVIDING PENALTIES FOR VIOLATIONS
THEREOF**

Be it ordained by the board of county commissioners of Boise County, Idaho:

Section 1. Enactment. The Board of Boise County finds and declares that the interests of the public health, safety and welfare of the citizens of Boise County require the regulation, licensing and control of assemblages of large numbers of people in excess of 100 and/or those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in this County. This ordinance is enacted pursuant to Idaho Code § 31-715, and serves to repeal all ordinances or parts of ordinances inconsistent herewith.

Section 2. Definitions.

Subdivision 1. Terms. All words and phrases used in these Sections shall be given their ordinary, commonly understood and accepted meanings unless specifically indicated otherwise.

Subdivision 2. Person. "Person" means any natural person, partnership, corporation, association, society or organization.

Subdivision 3. Sponsor. "Sponsor" means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

Subdivision 4. Attendant. "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

Subdivision 5. Applicant. "Applicant" means any person who applies for or to whom a permit is issued pursuant to this ordinance.

Subdivision 6. Special Event or Mass Gathering. "Special Event or Mass Gathering" shall be deemed to mean any lawful gathering or event attended by more than 100 persons, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to musical festivals, rock festivals, peace festivals or similar gatherings.

Subdivision 7. Commercial Gatherings. "Commercial gatherings" shall mean those special events and mass gatherings which are sponsored by local businesses or other groups primarily for the purpose of attracting tourists and others to Boise County for commercial reasons such as promoting tourism or increasing the sale of goods or services.

Subdivision 8. Non Commercial Gatherings. "Non commercial gatherings" shall mean those special events and mass gatherings whose primary purpose relates directly to the expression of philosophical, religious, political, patriotic or social points of view and which are not primarily designed for commercial reasons such as promoting tourism or increasing the sale of goods or services. Further, "Non commercial gatherings" shall exclude:

1. An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property; or
2. An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, being 26 USC 501(c)(3); or
3. An event held entirely within the confines of a permanently enclosed and covered structure.

Section 3. Permit Required. No person, corporation, partnership, association or group of any kind shall sponsor, stage, promote, hold or conduct a special event or mass gathering without first procuring from the county clerk a permit therefore.

Section 4. Issuing Authority and Application for a Permit.

Subdivision 1. County Clerk to Issue Permits. All permits shall be issued, approved, or disapproved by the Boise County clerk.

Subdivision 2. Permit Application. Written application for a permit to hold an outdoor gathering shall be made to the county clerk. The application shall be submitted at least 90 days prior to the date upon which the gathering is to be held and shall be accompanied by a nonrefundable fee of \$100.00. Such application shall be on forms provided by the county and shall have attached thereon plans, documents, approvals and other material required by this ordinance. The application shall be complete and contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn or affirmed by the person making the application. (Where the person making the application is a partnership, corporation or other association, the individual signing must be an authorized agent of the entity. Further, applicant information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.00.)

Subdivision 3. Action on Application. Upon receipt of a completed application for a permit, the county clerk shall approve or deny the application within 45 calendar days and give such applicant written notice of the decision; provided, however, the county clerk may extend such period of time if the applicant agrees to an extension. If the application is denied, the reasons for such denial shall be so stated in writing.

Following is the time line for the application process:

- (a) Within five calendar days of the clerk's receipt of the application, copies shall be forwarded to the chief law enforcement and health officers for the county, the district fire official, and to such other appropriate public officials as the clerk deems necessary; and
- (b) The reviewing agencies shall complete their review and return the application to the county clerk within 30 calendar days with a report of their findings and recommendations to the board; and
- (c) Written notification on the approval or denial of the application for permit shall be sent to the applicant within ten calendar days of the return of the application to the clerk from the last reviewing agency.

Section 5. Denial of Application. If the application for permit is denied, the applicant may appeal, in writing, the clerk's decision to the board of commissioners within ten calendar days of receipt of the notice of appeal. The board shall grant the permit or sustain the denial of the permit within 30 calendar days and give such applicant written notice of the decision. An application may be denied if:

- a. The applicant fails to comply with any or all requirements of this ordinance, or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,
- b. The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

Section 6. Approval of Application. In approving an application, the county clerk may set conditions or standards to protect the health, safety, welfare and property of persons attending the gathering and the citizenry in general. The county clerk shall authorize the issuance of a permit for an outdoor gathering if it finds:

- (a) That the outdoor gathering will be held at a location which complies with and meets all of the health, zoning, fire and safety requirements and standards of the laws of the state and ordinances of this county applicable thereto; and
- (b) That the information and documents required by this ordinance have been filed with the county clerk; and
- (c) That it appears the proposed outdoor gathering will be conducted in full accord with all requirements of this ordinance and will not substantially jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare of the residents of the county or those attending the gathering.

Subdivision 1. Conditions precedent to granting of permit; plans, statements, approvals, etc., to accompany application for permit. No permit shall be issued under this ordinance unless the following conditions are met and the following plans, statements and approvals are submitted to the county clerk with the application:

- (a) *Hours of operation.* Unless specifically approved by the board of commissioners, no stage presentation, music, dance, or other performing arts shall take place at an outdoor gathering between the hours of 11:00 p.m. and 9:00 a.m. and no activity involving the use of any means of sound amplification shall be permitted between the hours of 11:00 p.m. and 9:00 a.m.
- (b) *Estimated number of attendants and location authority.* An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes. Applicant will also provide the address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective applicant, he shall submit an affidavit from the owner indicating his consent to the use of the site for the proposed assembly.
- (c) *Admission by ticket only.* The applicant under this ordinance shall not admit, and shall prevent the entrance to the premises on which the outdoor

gathering is held, any person who does not possess a ticket, except a peace officer or other public official in the performance of his duties. The applicant shall not sell, give or distribute a greater number of tickets than the number which the permit allows to attend. The applicant shall not admit any persons to an outdoor gathering if such admission would result in a greater number of attendants present than allowed by the permit. *[The applicant may be required to erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.]*

- (d) Water supply. The applicant shall provide an ample supply of potable water for drinking and sanitation purposes at the rate of at least one gallon per person per day on the premises of the outdoor gathering. Applicant shall provide water for bathing at the rate of at least 10 gallons per person per day if the event continues overnight. The location and type of water facilities on the premises shall be approved by the Idaho Department of Health and Welfare prior to the issuance of a permit under this ordinance.
- (e) Toilet and/or lavatory facilities. The applicant shall provide a statement and plan concerning adequate toilet and/or lavatory facilities. A description of the type (flush type or portable chemical) and number of toilets available shall be provided. A sufficient supply of water, soap and paper towels or hand sanitizer shall be provided with each toilet. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Toilets - Male: 1:300, Female: 1:200
Urinals - Male: 1:100
Lavatories - Male: 1:200, Female: 1:200
Drinking Fountains - 1:500
Taps or Faucets - 1:500

Where assembly is to continue for more than 12 hours, the applicant shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Shower Heads - Male: 1:100, Female: 1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects and shall at all times be in operable condition. This plan shall be approved by the Idaho Department of Health and Welfare.

- (f) Waste management. The pickup of refuse, trash, garbage and rubbish and the sanitary removal of liquid and solid waste from the site of an outdoor gathering shall be at least once a day, and sufficient for removal of the maximum number of attendees at the rate of at least 2.5 lbs. of solid waste per person per day, and more often if required by the Idaho Department of Health and Welfare. Applicant shall comply with all state regulations pertaining to the removal of liquid and solid waste. Removal of all trash, refuse, liquid and solid waste shall be at the applicant's expense. The applicant shall clean up the premises and remove all trash and debris therefrom within 48 hours after the conclusion of the gathering.

- (g) Bonding. Before the issuance of a permit, the applicant shall obtain, from a corporate bonding company authorized to do business in Idaho, a corporate surety bond in the amount of \$100,000 (select appropriate figure) in a form to be approved by the County Attorney, conditioned upon the applicant's faithful compliance with all of the terms and provisions of this ordinance and all applicable provisions of state or local law, and which shall indemnify the county, its agents, officers, and employees and the board against any and all loss, injury or damage whatever arising out of or in any way connected with the assembly and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.
- (h) Pest Control. The applicant shall implement effective control measures to minimize the presence of rodents, flies, and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides shall not be used in any way so as to contaminate food, equipment, or otherwise constitute a hazard to the public health. Solid waste containing food water shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.
- (i) Medical facilities. Adequate medical facilities shall be provided as required by the Idaho Department of Health and Welfare and the EMS coordinator. Applicant shall provide at least one (1) nurse for every 1000 people and at least one (1) physician for every 3000 people, or portion thereof, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one emergency ambulance for use at all times. All event physicians and nurses shall be licensed to practice in the State of Idaho.
- (j) Fire protection. The applicant shall provide a plan for adequate fire protection as approved by the fire chief. It shall be provided at the applicant's own expense.
- (k) Traffic and parking control. The applicant shall provide adequate ingress and egress to the outdoor gathering premises. Adequate parking at the rate of at least one parking space for every four attendants shall also be provided. The Sheriff and fire chief shall approve the traffic control and parking plans.
- (l) Security. At least one off-duty county sheriff's deputy for each 100 attendees approved in the permit shall be in attendance during all performances; the applicant shall bear the costs thereof in advance of the assembly.
- (m) Food. A plan for the adequate provision and handling of food shall be provided and shall be approved by the Idaho Department of Health and Welfare.
- (n) Illumination. A statement shall be provided specifying whether any outdoor lights or lighting is to be utilized, and if so, a plan showing the

- location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the gathering is located.
- (o) Noise. Noise levels resulting from the gathering shall not be unreasonably audible beyond the property on which the gathering is held. The applicant shall submit a written statement specifying the expected noise level at the perimeter of the property.
 - (p) Communication system. If the premises are without a phone, the applicant shall make arrangements, approved by the Sheriff and fire chief, for other means of communication.
 - (q) Promoters, liability insurance. The applicant shall provide evidence of liability insurance of not less than \$1 million dollars as approved by the county attorney, which insurance shall insure liability for death or injury to person or damage to property which may result from the conduct of the assembly or conduct incident thereto and which insurance shall remain in full force and effect in the specified amounts for the duration of the permit. The certificate of insurance shall show the date(s) of the event and Boise County as a certificate holder of the policy. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the clerk of Boise County in writing at least 10 days before the expiration or cancellation of said insurance.
 - (r) Dates and hours of gathering. The applicant shall provide the date or dates and hours during which the outdoor gathering is to be conducted, together with an estimate or schedule of the dates and hours of performances, entertainments or other events.
 - (s) Type and nature of gathering. The applicant shall provide a description of the gathering and the type and nature of the performances, entertainment or floor shows, together with the names of the expected performers.
 - (t) Site plan. The applicant shall furnish a site plan showing:
 - (1) The areas for performances or activities and grandstands or seats showing the location of all aisles for pedestrian travel and other crowd-control measures.
 - (2) All physical facilities existing or to be constructed on the premises, including, but not limited to, fences, ticket booths, grandstands and stages.
 - (3) The location, capacity and nature of all temporary lighting, sound and public address facilities.
 - (4) The location, capacity and nature of all temporary water, toilet and all other public health related facilities.
 - (5) Vehicle ingress, egress and parking plan.

In addition, the application shall be accompanied by a map or maps of the overall site of the proposed assembly

Subdivision 2. Applicant may be required to meet additional conditions.

- (a) Any applicant for a permit required by this ordinance may be required to meet any conditions, in addition to those specified in this ordinance, prior to receiving a permit to conduct an outdoor gathering, which are deemed by the county clerk to protect the health, safety, and general welfare of the

persons attending such gathering, or the public in general. All expenses incurred in meeting these conditions will be borne by the applicant.

- (b) If the outdoor gathering results in the need for county services beyond those set forth in this ordinance, the applicant shall bear the costs thereof.

Section 7. Appeal Process. Any applicant aggrieved by the County Clerk's decision shall have the right to appeal the decision to the Board Boise County Commissioners, who shall hear the appeal at their next regularly scheduled meeting.

Section 8. Charges for Commercial Gatherings.

Subdivision 1. Fees. In the case of commercial gatherings, the county will charge a permit fee of \$100.00 per day, plus an additional \$50.00 per day for gatherings over 1000 attendants.

Subdivision 2. Gatherings requiring Officers. In the case of commercial gatherings where uniformed police officers are required for traffic and crowd control, costs incurred by the County for the required deputies, vehicles, and equipment as calculated by the Boise County Sheriff, will be paid by the Applicant.

Subdivision 3. Number of Officers. The number of deputies required will be determined by the type of event and expected attendance, the location, and the length of time the event will run, notwithstanding the minimum requirement cited in Section 6(1)(l). The number of deputies, sheriff's vehicles, and any other health and/or safety equipment that is required will be determined by the Boise County Sheriff in a systematic, consistent, and non discriminatory manner.

Subdivision 4. Overtime Duty. If a special event or mass gathering requires on-duty police officers to work overtime, the applicant will be charged at the applicable overtime rate for the employee performing the work.

Subdivision 5. Off Duty Officers. Where a special event or mass gathering only requires the use of off-duty deputies, the rate of hourly pay shall be based upon the then current applicable rate of pay for the employee performing the work. The County shall also charge an additional amount to defer the cost of Social Security, Retirement, and Workers Compensation.

Section 9. Non-Commercial Gatherings. In the case of non-commercial gatherings, a permit fee of \$25.00 shall be the only fee that is charged. However, where the applicant demonstrates that it is unable to pay such fee, the County Clerk shall waive such fee.

Section 10. Permit not Transferable. Permits issued under the provisions of this ordinance are non-transferable.

Section 11. Revocation of permit. Any violation by the applicant, his/her agent or employee, of one or more of the requirements of this ordinance or any violation of one or more of the terms and conditions of a permit issued hereunder shall be grounds for immediate revocation of the permit by the county clerk, the county commissioners or the county sheriff. Upon revocation of the permit, the applicant shall immediately terminate the gathering and provide for orderly dispersal of those in attendance.

Section 12. Violations and Penalties. It shall be unlawful for an applicant, his/her employee, or agent, to knowingly:

- Advertise, promote or sell tickets to, conduct, or operate an assembly without first obtaining a permit as herein provided.
- Conduct or operate an assembly in such a manner as to create a public or private nuisance.
- Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement.
- Permit any person on the premises to cause or create a disturbance in, around, or near the assembly by obscene or disorderly conduct.
- Permit any person to unlawfully consume, sell, or possess, intoxicating liquor while on the premises.
- Permit any person to unlawfully use, sell, or possess any narcotics, narcotic drugs, drugs or other substances as defined in Title 37, Chapter 27, Idaho Code.

Any of the above enumerated violations is a separate offense, is a nuisance per se and may be immediately abated through application for injunctive relief in the district courts and, notwithstanding injunctive relief, upon conviction thereof, shall be punished by a fine not to exceed \$300.00 or by confinement in jail not to exceed six (6) months, or both.

Section 13. Repeal of Previously Enacted Ordinances. Boise County Ordinance No. 81-4 and all provisions of any Boise County ordinance or resolution not consistent with this ordinance are hereby repealed as of the effective date of this ordinance.

Section 14. Severability. If any part of this Ordinance shall be held void, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining parts of this Ordinance.

Section 15. Effective Date. This Ordinance becomes effective upon its passage and publication according to law.

APPROVED for FULL FORCE and EFFECT by the BOISE COUNTY BOARD of COMMISSIONERS this 30th DAY of AUGUST 2004.

BOARD OF COUNTY COMMISSIONERS

Dale A. Hanson, Chairman

Roger B. Jackson, Commissioner

Attest:

Fred H. Lawson, Commissioner

Rora Canody, Boise County Clerk