

CITY OF DALTON GARDENS

ORDINANCE NO. 43

AN ORDINANCE OF THE CITY OF DALTON GARDENS PROVIDING FOR THE ABATEMENT AND REMOVAL AS PUBLIC NUISANCES OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES OR PARTS THEREOF FROM PRIVATE PROPERTY OR PUBLIC PROPERTY NOT INCLUDING HIGHWAYS, AND RECOVERY OF COSTS OF ADMINISTRATION THEREOF:

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

SECTION I: Pursuant to the authority granted by Section 50-334 of the Idaho Code and correlated other provisions, the City Council hereby makes the following findings and declarations:

1. The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways, is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including

highways, except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this ordinance.

2. As used in this Ordinance:

(a) the term "vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks;

(b) the term "highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street;

(c) the term "public property" does not include "highway".

SECTION II: This Ordinance shall not apply to:

1. a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

2. a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance.

SECTION III: This ordinance is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

SECTION IV: Except as otherwise provided herein, the provisions of this ordinance shall be administered and enforced by an individual appointed by the City Council who shall be called the "Vehicle Hearing Officer". In the enforcement of this ordinance, such officer and his deputies may enter upon private or public property to examine a vehicle or part thereof declared to be a nuisance pursuant to this ordinance.

SECTION V: When the City Council has contracted with or granted a franchise to any person or persons, such person shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this ordinance.

SECTION VI: The City Council shall from time to time determine and fix an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle or part thereof, under this ordinance. Said administrative cost is hereby fixed at \$25.00 until further amendment.

SECTION VII: A public hearing shall be held on the question of abatement and removal of the vehicle or part thereof as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and the cost of removal of the vehicle or part thereof against the property on which it is located. Notice of hearing shall be mailed at least ten (10) days before the hearing by certified mail, and a five-day return requested, to the owner of the land as shown on the last assessment roll of Kootenai County, Idaho, and to the last registered owner and legal owner of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If any of the foregoing notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten (10) days from the date of such return.

SECTION VIII: All hearing under this ordinance shall be held before the Vehicle Hearing Officer, who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The Vehicle Hearing Officer shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consider-

ation at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The Vehicle Hearing Officer may impose such conditions and take such action as he deems appropriate under the circumstances to carry out the purpose of this ordinance. He may delay the time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the Vehicle Hearing Officer may find that a vehicle or part thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided, and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the Vehicle Hearing Officer shall not assess costs of administration and removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

If an interested party makes a written presentation to the Vehicle Hearing Officer but does not appear, he shall be notified in writing of the decision.

SECTION IX: Any interested party may appeal the decision of the Vehicle Hearing Officer by filing a written notice of appeal with the said Vehicle Hearing Officer within five (5) days after its decision.

Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.

The Clerk shall give written notice of the time and place of hearing to the appellant and those persons specified in Section VII.

In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.

SECTION X: Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision, if such notice is required by Section VIII because of a written presentation, or five (5) days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

SECTION XI: If the administrative costs or the costs of removal which are charged against the owner of a parcel of

land pursuant to Section VIII are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Sections 50-334 and 50-1008 Idaho Code, and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other City taxes.

SECTION XII: It shall be unlawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this ordinance or State law, where such State law is applicable, and such failure or refusal shall constitute a misdemeanor punishable by a fine not to exceed \$300.00 or imprisonment not exceeding six months, or both such fine and imprisonment, providing that each day the violation is permitted to exist shall constitute a separate violation.

SECTION XIII: All ordinances and parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION XIV: This ordinance shall take effect and be in full force and effect upon its passage and approval and publication in one issue of the Coeur d'Alene Press, a newspaper of general circulation published in Kootenai County, Idaho.

Read and passed at three separate regular meetings of the City Council held on June 7, July 5, and August 2, 1973, and duly enacted an ordinance of the City of Dalton Gardens.

DATED this 2nd day of August, 1973.

Ward B. Sherouse
Mayor

ATTEST:

Lucy A. Howard
Clerk

AFFIDAVIT

PUBLICATION—COEUR

D'ALENE PRESS

(WEEKLY)

STATE OF IDAHO, }
County of Kootenai, } ss.

Carol J Hedge

, being first duly sworn,

deposes and says:

That affiant is now, and at all times herein mentioned has been, a citizen of the United States and a resident of Kootenai County, State of Idaho, over the age of 21 years and not a party to, nor interested in the event of, the above entitled matter, and the printer (principal clerk) of the "Coeur d'Alene Press", during all of the times herein mentioned being a legal daily newspaper, of Coeur d'Alene, Kootenai County, Idaho, as defined by Idaho Code Sec. 60-106 to Sec. 60-108 both inclusive, and Chapter 121 Idaho Session Laws of 1949, and acts amendatory thereof and correlated thereto, and qualified thereunder to publish to the same effect as a weekly

newspaper on Wednesdays; and that the

City of Dalton Ordinance # 43

of which a printed copy is annexed hereto, was published in all the regular Wednesday

weekly issues of said newspaper for 1 consecutive weeks, commencing

on the 8th day of August, 1973, and ending on the

8th day of August, 1973.

Carol J Hedge

Subscribed and sworn to, before me, this 14 day of August

19 73

[Signature]

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

SECTION IV: Except as otherwise provided herein, the provisions of this ordinance shall be administered and enforced by an individual appointed by the City Council who shall be called the "Vehicle Hearing Officer." In the enforcing of this ordinance, such officer and his deputies may enter upon private or public property to examine a vehicle or part thereof declared to be a nuisance pursuant to this ordinance.

SECTION V: When the City Council has contracted with or granted a franchise to any person or persons, such person shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this ordinance.

SECTION VI: The City Council shall from time to time determine and fix an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle or part thereof, under this ordinance. Said administrative cost is hereby fixed at \$25.00 until further amendment.

SECTION VII: A public hearing shall be held on the question of abatement and removal of the vehicle or part thereof as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and the cost of removal of the vehicle or part thereof against the property on which it is located. Notice of hearing shall be mailed at least ten (10) days before the hearing by certified mail, and a five-day return requested, to the owner of the land as shown on the last assessment roll of Kootenai County, Idaho, and to the last registered owner and legal owner of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If any of the foregoing notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten (10) days from the date of such return.

SECTION VIII: All hearing under this ordinance shall be held before the Vehicle Hearing Officer, who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The Vehicle Hearing Officer shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The Vehicle Hearing Officer may impose such conditions and take such action as he deems appropriate under the circumstances to carry out the purpose of this ordinance. He may delay the time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the Vehicle Hearing Officer may find that a vehicle or part thereof has been abandoned, or is inoperative, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided, and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the Vehicle Hearing Officer shall not assess costs of administration and removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

If an interested party makes a written presentation to the Vehicle Hearing Officer but does not appear, he shall be notified in writing of the decision.

SECTION IX: Any interested party may appeal the decision of the Vehicle Hearing Officer by filing a written notice of appeal with the said Vehicle Hearing Officer within five (5) days after its decision.

Such appeal shall be heard by the City Council which may af-

firm, amend or reverse the order or take other action deemed appropriate.

The Clerk shall give written notice of the time and place of hearing to the appellant and those persons specified in Section VII.

In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.

SECTION X: Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision, if such notice is required by Section VIII because of a written presentation, or five (5) days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

SECTION XI: If the administrative costs or the costs of removal which are charged against the owner of a parcel of land pursuant to Section VIII are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Sections 50-334 and 50-1008 Idaho Code, and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other City taxes.

SECTION XII: It shall be un-

lawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this ordinance or State law, where such State law is applicable, and such failure or refusal shall constitute a misdemeanor punishable by a fine not to exceed \$300.00 or imprisonment not exceeding six months, or both such fine and imprisonment, providing that each day the violation is permitted to exist shall constitute a separate violation.

SECTION XIII: All ordinances and parts of ordinances in conflict herewith shall be and are hereby repealed.

SECTION XIV: This ordinance shall take effect and be in full force and effect upon its passage and approval and publication in one issue of the Coeur d'Alene Press, a newspaper of general circulation published in Kootenai County, Idaho.

Read and passed at three separate regular meetings of the City Council on June 7, July 5, and August 2, 1973, and duly enacted an ordinance of the City of Dalton Gardens.

DATED this 2nd day of August, 1973.

Ward B. Newcomb
Mayor

ATTEST:
Lucy Howey
Clerk
Aug. 8, 1973

CITY OF DALTON GARDENS
ORDINANCE NO. 43

AN ORDINANCE OF THE CITY OF DALTON GARDENS PROVIDING FOR THE ABATEMENT AND REMOVAL AS PUBLIC NUISANCES OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES OR PARTS THEREOF FROM PRIVATE PROPERTY OR PUBLIC PROPERTY NOT INCLUDING HIGHWAYS, AND RECOVERY OF COSTS OF ADMINISTRATION THEREOF.

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

SECTION I: Pursuant to the authority granted by Section 50-334 of the Idaho Code and correlated other provisions, the City Council hereby makes the following findings and declarations:

1. The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof on private or public property not including highways, is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this ordinance.

2. As used in this Ordinance:

(a) the term "vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks;

(b) the term "highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street;

(c) the term "public property" does not include "highway."

SECTION II: This Ordinance shall not apply to:

1. a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

2. a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance.

SECTION III: This ordinance is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.