

CITY OF DALTON GARDENS

ORDINANCE NO. 64

AN ORDINANCE PROVIDING FOR DIRECT LEGISLATION BY THE PEOPLE THROUGH THE INITIATIVE AND REFERENDUM, ESTABLISHING RULES AND REGULATIONS GOVERNING THE PETITIONING THEREFOR, AND PRESCRIBING THE PROCEDURE FOR CONDUCTING THE ELECTION PURSUANT THERETO.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALTON GARDENS AS FOLLOWS:

SECTION 1. Creation of Right: The people of this City shall have the right to enact ordinances through the initiative process, and to repeal ordinances through the referendum process, according to the procedures set forth herein.

SECTION 2. Number of Petitioners Required: To enact an ordinance by initiative or to repeal an ordinance by referendum, there shall be attached or appended to the petition the signatures of the legal voters of the City equal to at least twenty (20) percent of the total number of voters registered to vote at the last general election in the City.

SECTION 3. Form of Petition: The initiative petition shall be in substantially the following form:

Initiative Petition to the Mayor and Council of the City of Dalton Gardens, Idaho: "We, the undersigned citizens and legal voters of the City of Dalton Gardens, respectfully demand that the following proposed ordinance, to-wit: (setting out full text of measure proposed) shall be submitted to the legal voters

of the City of Dalton Gardens, for their approval or rejection at an election to be called in accordance with Idaho Code Section 50-501 (3), and each for himself says: I have personally signed this petition; I am a legal voter of the City of Dalton Gardens; my residence and postoffice are correctly written after my name.

Name _____ Street and Number _____ Postoffice _____"

(Here follow numbered lines for signatures)

(The petition for referendum on any ordinance passed by the City Council shall be in substantially the same form with appropriate title and changes, setting out in full the text of the ordinance to be referred to the people for their approval or rejection.)

SECTION 4. Time for Filing Petitions: Referendum petitions with the requisite number of signatures attached shall be filed with the City Clerk not less than sixty (60) days following the final adoption of the ordinance to be subject to referendum.

SECTION 5. Printing of Petition and Sheets for Signature - Time Limits for Perfecting Petition: (1) Before or at the time of beginning to circulate any petition for initiative or referendum, the person or persons, organization or organizations under whose authority the petition is to be circulated, shall send or deliver to the City Clerk a copy of such petition duly signed by at least twenty (20) electors eligible to sign such petition. The Clerk shall immediately examine the petition

and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and sheets for signatures shall be printed on a good quality bond or ledger paper, on pages eight and one-half ($8\frac{1}{2}$) inches in width by thirteen (13) inches in length, with a margin of one and three-fourths ($1\frac{3}{4}$) inches at the top for binding, and the sheets for signatures shall have numbered lines thereon from one (1) to twenty (20) for signatures. The petition shall be prepared in sections, with each section numbered consecutively. Each section of a petition must have a printed copy of the petition as the first page, and each section shall have attached to it not more than ten (10) sheets for signatures.

(2) The City Clerk shall indicate in writing on the petition that he has approved it as to form, the Clerk shall inform the person or persons, organization or organizations under whose authority the petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within sixty (60) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the sixty (60) days allowed shall be declared null and void ab initio in its entirety.

SECTION 6. Verification on Sheets for Signatures: Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho)
)ss.
County of Kootenai)

I, _____, swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

Signature _____

Postoffice Address _____

Subscribed and sworn to before me this ____ day of _____, 19__

(Notary Seal) Notary Public _____

Residing at _____

SECTION 7. Examination and Certification of Signatures:

(1) All petitions with attached signature sheets shall be presented on the same day to the City Clerk who shall make a cursory examination of them to determine whether the petitions apparently contain the necessary number of signatures.

(a) If the total number of signatures on the petitions is not sufficient to satisfy the number required by Section 2 of this ordinance, all petitions with attached signature sheets shall be retained by the City Clerk who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered, if within the time limit of Section 5 of this ordinance.

(b) If the cursory examination of the signature sheets reveals:

- (i) Erasures on any signature;
- (ii) Illegible or undecipherable signatures;
- (iii) Signatures not properly identified by all of the information required on the sheet;
- (iv) Duplicate signatures;
- (v) Signatures of persons who have requested in writing to have their names removed from the petition;

the City Clerk shall summarily reject such signatures and they shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the Clerk. If the total number of signatures not rejected is not sufficient to satisfy the number required by Section 2 of this ordinance, all petitions with attached signature sheets shall be retained by the Clerk who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered, if within the time limit of Section 5 of this ordinance.

(2) All petitions presented to the City Clerk found to apparently contain the necessary number of signatures, after the cursory examination provided for above, shall be filed with the City Clerk and become public records of the City not to be returned. The City Clerk shall examine each such signature purported to be that of a registered elector of the City, and compare each such signature with the registration documents available to the City Clerk. The City Clerk shall

summarily reject all signatures which are not the signatures of a registered elector of the city; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the City Clerk. The City Clerk may take not to exceed ten (10) days after filing of the petition to complete his examination. The City Clerk shall certify each signature found to comply with all of the requirements of this ordinance by an appropriate mark following each signature.

The City Clerk shall total the number of certified signatures, and if found to total the number of signatures required by Section 2 of this ordinance, shall proceed as provided in Section 8 herein.

SECTION 8. Sufficiency of Petition - Notification - Effect of Council - Action - Election: (1) In the event that a petition filed with a City Clerk does not contain the required number of certified signatures, the City Clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the City Clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the Clerk shall declare the petition null and void ab initio in its entirety.

(2) In the event that a petition filed with a City Clerk is found by the City Clerk to contain the required number of

certified signatures, the City Clerk shall promptly, by certified mail, inform the petitioners, and shall also notify the City Council at its next meeting that the initiative or referendum petition is in proper form.

(a) If the petition is for a referendum, the City Council shall have thirty (30) days from the date of certification of the petition to repeal the ordinance being referred to the voters. In the event the Council repeals the ordinance, the referendum petition shall be declared null and void.

(b) If the petition is an initiative petition, the City Council shall have thirty (30) days to pass an ordinance substantially as proposed by the petition. In the event the council passes such an ordinance, the initiative petition shall be null and void.

(c) In the event the City Council neither repeals the ordinance which is the subject of a referendum petition, nor enacts an ordinance which is the subject of an initiative petition, an election shall be ordered by the City Clerk to be conducted city-wide. A special election for initiative or referendum shall be provided not more than ninety (90) days following the certification of the petition, provided that in the event a municipal election will occur within the ninety (90) days, the initiative or referendum shall be submitted at the time of the municipal election.

SECTION 9. Form of Ballot: The City Council shall prepare a ballot for an initiative or referendum election in

one of the following ways: (1) If the full text of the ordinance or proposed ordinance to be voted upon does not exceed 120 words in length, it may be set out in full on the election ballot; or

(2) If the full text of the ordinance or proposed ordinance to be voted upon exceeds 120 words in length, and the council votes not to have it printed at length on the election ballot, it shall, with the assistance of the city attorney, prepare a short title and description of the ordinance or proposed ordinance which shall clearly and impartially state its purpose and effect, which short title and description shall be printed on the election ballot.

SECTION 10. Conduct of Election: Initiative or referendum elections, whether special or general, shall be conducted and the results thereof canvassed and certified in all respects as near as practicable, in like manner as general elections, except as otherwise provided.

SECTION 11. Costs of Election: Upon the filing of any initiative or referendum petition with the City Clerk, petitioners shall post bond with the Clerk in an amount sufficient to offset the estimated expense of conducting the election, unless such election is to be held at the time of a regular general municipal election. As near as practicable after the election, the total actual expenses of the election shall be tabulated by the City Clerk. The petitioners shall be jointly and severally liable for payment into the City treasury of the whole amount of the expenses of such election.

SECTION 12. Canvass of Returns: The Mayor and Council shall meet within five (5) days after said election to canvass

the votes cast at such election, and the City Clerk shall immediately announce the results. Any initiative measure approved by a majority of the votes cast shall be in full force and effect from the date of such announcement. Any ordinance which is the subject of a referendum receiving less than a majority of the votes cast shall be repealed, effective on the date of such announcement.

SECTION 13. Prohibited Acts - Penalties: A person is guilty of a misdemeanor who:

(1) Signs any name other than his own to any initiative or referendum petition;

(2) Knowingly signs his name more than once on the same initiative or referendum petition;

(3) Knowingly signs his name to any initiative or referendum petition if he is not a registered city elector;

(4) Wilfully or knowingly circulates, published or exhibits any false statement or representation concerning the contents, purport or effect of any initiative or referendum petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition;

(5) Presents to any officer for filing any initiative or referendum petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;

(6) Circulates or causes to circulate any initiative or referendum petition, knowing the same to contain false, forged or fictitious names;

(7) Makes any false affidavit concerning any initiative or referendum petition or the signatures appended thereto;

(8) Offers, proposes or threatens for any pecuniary reward or consideration;

(a) To offer, propose, threaten or attempt to sell, hinder or delay any initiative or referendum petition or any part thereof or any signatures thereon;

(b) To offer, propose, or threaten to desist from beginning, promoting or circulating any initiative or referendum petition;

(c) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

SECTION 14. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 15. This ordinance shall take effect and be in full force and effect upon its passage, approval and publication in one issue of the Coeur d'Alene Press, a newspaper of general circulation, published in Kootenai County, Idaho.

Passed under suspension of the rules upon which a roll call vote was taken and duly enacted an ordinance of the

City of Dalton Gardens, Idaho, at a regular meeting of the
Mayor and City Council held on July 7th, 1977.

James C. Howard
Mayor

ATTEST:

Lucy A. Howey
Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Carole Hedge being first duly sworn
upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The

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of which the annexed is a printed copy, was published in the regular *Thurs*
issue of said newspaper for *1* consecutive *day*
commencing on the *14* day of *July*, 19*77*, and
ending on the *14* day of *July*, 19*77*, and such
publication was made as often during said period as said *daily*
newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

Subscribed and sworn to before me this

Carole Hedge
14 day of *July*

19*77*

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

Council shall be in substantially the same form with appropriate title and changes, setting out in full the text of the ordinance to be referred to the people for their approval or rejection.)

SECTION 4. Time for Filing Petitions: Referendum petitions with the requisite number of signatures attached shall be filed with the City Clerk not less than sixty (60) days following the final adoption of the ordinance to be subject to referendum.

SECTION 5. Printing of Petition and Sheets for Signature - Time Limits for Perfecting Petition: (1) Before or at the time of beginning to circulate any petition for initiative or referendum, the person or persons, organization or organizations under whose authority the petition is to be circulated, shall send or deliver to the City Clerk a copy of such petition duly signed by at least twenty (20) electors eligible to sign such petition. The Clerk shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and sheets for signatures shall be printed on a good quality bond or ledger paper, on pages eight and one-half (8½) inches in width by thirteen (13) inches in length, with a margin of one and three-fourths (1¾) inches at the top for binding, and the sheets for signatures shall have numbered lines thereon from one (1) to twenty (20) for signatures. The petition shall be prepared in sections, with each section numbered consecutively. Each section of a petition must have a printed copy of the petition as the first page, and each section shall have attached to it not more than ten (10) sheets of signatures.

(2) The City Clerk shall indicate in writing on the petition that he has approved it as to form, the Clerk shall inform the person or persons, organization or organizations under whose authority the petition is to be circulated, in writing, that the petition must be perfected with the required number of certified signatures within sixty (60) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the sixty (60) days allowed shall be declared null and void ab initio in its entirety.

SECTION 6. Verification on Sheets for Signatures: Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho
County of Kootenai, ss.
I, _____, do hereby swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

Signature _____
Post office _____
Address _____
Subscribed and sworn to before me this _____ day of _____, 19____.
(Notary Seal)
Notary Public _____
Residing at _____

SECTION 7. Examination and Certification of Signatures:

(1) All petitions with attached signature sheets shall be presented on the same day to the City Clerk who shall make a cursory examination of them to determine whether the petitions apparently contain the necessary number of signatures.

(a) If the total number of signatures on the petitions is not sufficient to satisfy the number required by Section 2 of this ordinance, all petitions with attached signature sheets shall be retained by the City Clerk who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered, if within the time limit of Section 5 of this ordinance.

(b) If the cursory examination of the signature sheets reveals:

- (i) Illegible or undecipherable signatures;
- (ii) Signatures not properly identified by all of the information required on the sheet;
- (iii) Duplicate signatures;
- (iv) Signatures of persons who have requested in writing to have their names removed from the petition.

The City Clerk shall summarily reject such signatures and they shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the Clerk. If the total number of signatures not rejected is not sufficient to satisfy the number required by Section 2 of this ordinance, all petitions with attached signature sheets shall be retained by the Clerk who shall notify in writing the person filing the petition of the number of signatures needed, and further signatures may be gathered, if within the time limit of Section 5 of this ordinance.

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number of additional signatures required to make the petition valid. The petition must be perfected within thirty (30) days of the date that the City Clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the thirty (30) day period, the Clerk shall declare the petition null and void ab initio in its entirety.

(2) In the event that a petition filed with a City Clerk is found to be defective for lack of certified signatures, the City Clerk shall promptly, by certified mail, inform the petitioners, and shall also notify the City Council at the next meeting that the initiative or referendum petition is in proper form.

(a) If the petition is for a referendum, the City Council shall have thirty (30) days from the date of certification of the petition to repeal the ordinance being referred to the voters. In the event the Council repeals the ordinance, the referendum petition shall be declared null and void.

(b) If the petition is an initiative, the City Council shall have thirty (30) days to pass an ordinance substantially proposed by the petition. In the event the council passes such an ordinance, the initiative petition shall be null and void.

(c) In the event the City Council neither repeals the ordinance which is the subject of a referendum petition, nor enacts an ordinance which is the subject of an initiative petition, an election shall be ordered by the City Clerk to be conducted city-wide. A special election for initiative or referendum shall be provided if more than ninety (90) days following the certification of the petition, provided that in the event a municipal election will occur within the ninety (90) days, the initiative or referendum shall be submitted at the time of the municipal election.

SECTION 9. Form of Ballot: The City Council shall prepare a ballot for an initiative or referendum election in one of the following ways: (1) If the full text of the ordinance or proposed ordinance to be voted upon does not exceed 120 words in length, it may be set out in full on the election ballot or

(2) If the full text of the ordinance or proposed ordinance to be voted upon exceeds 120 words in length, and the council votes not to have it printed at length on the election ballot, it shall, with the assistance of the city attorney, prepare a short title and description of the ordinance proposed, which shall be clearly and impartially stated, and the purpose and effect, which shall be printed on the election ballot.

SECTION 10. Conduct of Election: Initiative or referendum elections, whether special or general, shall be conducted as the results thereof canvassed and certified in all respects as near practicable, in like manner as general elections, except otherwise provided.

SECTION 11. Costs of Election: Upon the filing of any initiative or referendum petition with the City Clerk, petitioners shall post bond with the Clerk in an amount sufficient to offset the estimated expense of conducting the election unless such election is to be held at the time of a regular general municipal election. As near practicable after the election, the total actual expenses of the election shall be tabulated by the City Clerk. The petitioners shall be jointly and severally liable for payment into the City treasury of the whole amount of the expenses of such election.

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- (2) Knowingly signs his name more than once on the same initiative or referendum petition;
- (3) Knowingly signs his name to any initiative or referendum petition if he is not a registered elector;
- (4) Wilfully or knowingly calculates, published or exhibits a false statement or representation concerning the contents, purpose or effect of any initiative or referendum petition for the purpose of obtaining any signature on such petition, or for the purpose of persuading any person to sign any such petition;
- (5) Presents to any officer filing any initiative or referendum petition to which is attached, appended or subscribed a signature which the person signing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;
- (6) Circulates or causes to be circulated any initiative or referendum petition, knowing the same to contain false, forged or fictitious names;
- (7) Makes any false affidavit concerning any initiative or referendum petition or signatures appended thereto;
- (8) Offers, proposed, threatens for any pecuniary reward or consideration:
 - (a) To offer, propose, threaten or attempt to sell, hinder or delay any initiative or referendum petition or any part thereof or signatures thereon;
 - (b) To offer, propose, threaten to desist from beginning, promoting or circulating any initiative or referendum petition;
 - (c) To offer, propose, threaten or threaten in any manner or to use any recall petition or power of promotion or opposition in any manner or form for extortion, blackmail or secret private intimidation of any person or business interest.

SECTION 14. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 15. This ordinance shall take effect and be in full force and effect upon its passage, approval and publication in the issue of the Coeur d'Alene Press newspaper of general circulation published in Kootenai County, Idaho.

CITY OF DALTON GARDENS
ORDINANCE NO. 64
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(Here follow numbered lines for signatures)
(The petition for referendum on any ordinance passed by the City

ATTEST:
Lucy A. Howey
Clerk
Legal No. 356

Passed under suspension of rules upon which a roll-call was taken and duly enacted as an ordinance of the City of Dalton Gardens, Idaho, at a regular meeting of the Mayor and Council held on July 7, 1977.
s/ James C. Howey
M: