

GRAFFITI ORDINANCE NO 188.

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING DEFINITIONS AND REGULATIONS FOR GRAFFITI WITHIN THE CITY OF DALTON GARDENS.

BE IT ORDAINED by the Mayor and City Council of Dalton Gardens, Idaho:

- Section 1: Title
- Section 2: Authority
- Section 3: Purpose
- Section 4: Definitions
- Section 5: Prohibition Against Graffiti
- Section 6: Removal of Graffiti
- Section 7: Parental Civil Responsibility
- Section 8: Reward for Information/Restitution
- Section 9: Severability
- Section 10: Conflicting Ordinance Provisions
- Section 11: Effective Date

SECTION 1: TITLE

This Ordinance shall be known as the GRAFFITI ORDINANCE of Dalton Gardens.

SECTION 2: AUTHORITY

This Ordinance is authorized under the provisions of Idaho Code Section 67-6511 and 67-65-12.

SECTION 3: PURPOSE:

It is the intent of this Ordinance to provide peace, quiet, and domestic tranquility, and to protect the public from anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood.

The Dalton Gardens City Council finds that the presence of graffiti on public and private property within the City can cause the aesthetic deterioration of neighborhoods and commercial areas, creates blight and, if not promptly abated, may lead to further placement of graffiti and the aesthetic deterioration of areas within the City of Dalton Gardens. The purpose of this ordinance is to establish rules and procedures for graffiti removal and to address the costs of such removal.

SECTION 4: DEFINITIONS

GRAFFITI: Includes, but is not limited to, any form of painting, writing, or inscription regardless of the content or the nature of the materials used which is applied to any public or private surface without the consent of the owner of the property.

GRAFFITI IMPLEMENT: Any items that are reasonably known to be used to cause graffiti, including, but are not limited to, such items as aerosol paint containers, paint sticks, or markers.

TAG: Graffiti that typically features a word or words instead of pictures or graphics. For example, a tag usually includes a name of the author.

SECTION 5: PROHIBITION AGAINST CAUSING OR ATTEMPTING TO CAUSE GRAFFITI:

A. No person may put "graffiti", as defined in this Chapter, on any property, real or personal, where they will be visible from public property. It is unlawful for any person or group of persons to apply or cause or attempt to apply or cause graffiti or to tag including, but not limited to, any of the following acts:

1. Drawing, scribing, etching, marking, painting, staining, sticking or adhering by any means whatsoever, any unauthorized inscription, symbol, design, and/or any markings of any kind including, but not limited to, configuration of letters and/or numbers upon any surface, whether publicly or privately owned, including, but not limited to, trees, mailboxes, signs, poles, fixtures, utility boxes, trash containers, fences, walls, windows, roofs, paths, walks, streets or pavement, under/overpasses, tunnels, bridges, trestles, drainage facilities, buildings and/or the interior or exterior of any other structures or surfaces.

2. Attempting to draw, scribe, etch, mark, paint, stain, stick or adhere by any means whatsoever, any unauthorized markings of any kind including, but not limited to, inscription, symbol, design, and/or configuration of letters and/or numbers upon any surface, whether publicly or privately owned, including, but not limited to, trees, mailboxes, walls, windows, roofs, paths, walks, streets, tunnels, bridges, trestles, drainage facilities, buildings and/or the exterior or interior of any other structures or surfaces.

3. Conspiring to, or participating in any way in causing or attempting to cause graffiti, including, but not limited to, acting as a "lookout".

SECTION 6: REMOVAL OF GRAFFITI:

A. Prohibition Against Allowing Graffiti To Remain: It shall be unlawful for any owner, occupant, lessee, lessor, renter, tenant or person otherwise in charge

or control of any property within the City to permit any graffiti to exist, or to allow any graffiti to remain on any surface located on such property when the graffiti constitutes a public nuisance and notice of removal has been given under subsection B of this Section.

B. Removal From Non-City Property:

1. It is the duty of every property owner, occupant, lessee, lessor, renter, tenant, or person otherwise in charge or control of any property within the City to remove graffiti promptly from his or her property in a manner acceptable to the City. When graffiti constitutes a public nuisance, the City may cause a written notice to be served upon the property owner, occupant, lessee, lessor, renter, tenant, or any person otherwise in charge or control of the affected property requesting removal of the graffiti.

2. If such property owner, occupant, lessee, lessor, renter, tenant, or person otherwise in charge or control of the property, fails to remove the graffiti within seventy two (72) hours after receipt of the notice requesting the removal of the graffiti, the graffiti may be abated by the City and the cost of abatement may be billed to the property owner. The City may utilize any enforcement or collection techniques legally available to it.

3. When the City determines to remove graffiti at the City's expense, and the owner of the property consents to such removal and executes the necessary documents, the City or its contractor is authorized to provide for the removal of the graffiti.

4. Prior to the removal of graffiti from property not owned by the City, the City or its contractor shall obtain written consent of the owner, occupant, lessee, lessor, renter, tenant, or other person in charge or control of the property who shall execute a release and waiver approved as to form by the City Attorney.

C. Notice: Notice pursuant to this Section shall be deemed given upon personal service, or forty eight (48) hours after being deposited in the United States mail, first class, postage prepaid, directed to the intended individual or after posting the property position.

SECTION 7: PARENTAL CIVIL LIABILITY:

In situations where graffiti is willfully caused by individuals under the age of eighteen (18), the parent or legal guardian of said minor shall be responsible for its removal or payment for the cost thereof. The City may recover such costs up to two thousand five hundred dollars (\$2,500.00) (or as otherwise determined by law) in a civil action in addition to any other remedies provided by law.

SECTION 8: REWARD FOR INFORMATION/RESTITUTION:

- A. The City Council may, by resolution, offer and pay a reward for information leading to the apprehension and conviction of any person who places "graffiti" or other inscribed material as defined herein upon public or privately owned structures within the City. In addition to any fines levied by the City for violation of the division, any person who has damaged property by inscribing graffiti on public or private property shall be liable for the amount of any reward paid.
- B. As a part of any sentence or other penalty imposed, the court may also order that restitution be paid to the victim by the admitted or convicted perpetrator, and in the case of a perpetrator who is a minor, by the minor's parent or lawfully designated guardian or custodian.

SECTION 9: SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10: CONFLICTING ORDINANCE PROVISIONS

If any conflict occurs between this Ordinance and provisions of the other City Ordinances, the more restrictive Ordinance shall take precedence.

SECTION 11: EFFECTIVE DATE

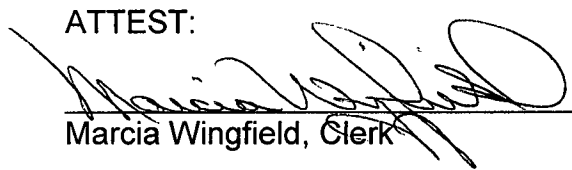
This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 3rd day of August, 2006.



Dan Franklin, Mayor

ATTEST:



Marcia Wingfield, Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Amy McCree

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

Legal Notice

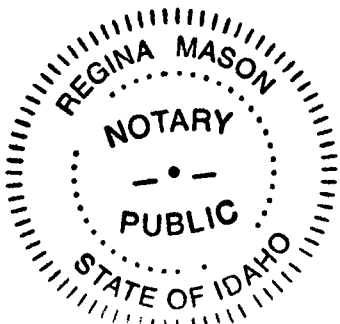
of which the annexed is a printed copy, was published in the regular issue of said newspaper for 1 consecutive Friday day commencing on the 11 day of August, 2006, and ending on the 11 day of August, 2006, and such publication was made as often during said period as said daily newspaper was regularly 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.

On this 11 day of August in the year of 2006, before me, a Notary Public, personally appeared Amy McCree, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

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



MY COMMISSION EXPIRES 6/18/09

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Amy McCue

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

Legal Notice

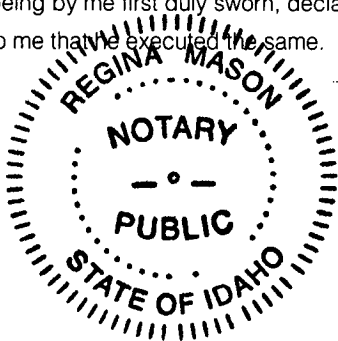
of which the annexed is a printed copy, was published in the regular *Tuesday* issue of said newspaper for *1* consecutive *day* commencing on the *20* day of *June*, 20*06*, and ending on the *20* day of *June*, 20*06*, and such publication was made as often during said period as said *daily* newspaper 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.

On this *20* day of *June* in the year *2006*, before me, a Notary Public, personally appeared *Amy McCue*, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason

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



MY COMMISSION EXPIRES 6/18/09

NOTICE OF PUBLIC HEARINGS CITY OF DALTON GARDENS CITY COUNCIL July 6, 2006

The Dalton Gardens City Council will hold a special meeting on July 6, 2006 to hear a public hearing on the following:

An Ordinance of Dalton Gardens, Idaho, a political subdivision of the State of Idaho, establishing definitions and regulations for graffiti within the City of Dalton Gardens. The hearing will be held at 6360 4th Street, Dalton Gardens, Idaho at 7:00 p.m. on Thursday, July 6, 2006. All interested persons are invited to appear and show cause, if any, why such item should or should not be adopted. Copies of the applications are available at City Hall during regular office hours. City Hall is accessible to persons with disabilities. Anyone desiring accommodations for disabilities related to these documents or to the hearing can contact the City Clerk, 772-3698 at least 48 hours prior to the public hearing.

Attest:
Marcia Wingfield

Legal 9338
June 20, 2006