

CITY OF DALTON GARDENS
APPROACH ORDINANCE NUMBER 191

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING STANDARDS AND MINIMUM REQUIREMENTS FOR ACCESS FROM PRIVATE PROPERTY TO PUBLIC RIGHTS OF WAYS AND PRIVATE STREETS, PROVIDING FOR PERMITS, PROHIBITED CONDUCT, ENFORCEMENT, PENALTIES, FEES, SEVERABILITY AND AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of DALTON GARDENS, Idaho:

Section 1	Title
Section 2	Authority
Section 3	Purpose and Applicability
Section 4	Amendments
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SECTION 1: TITLE

This Ordinance shall be known as the STREETS, ~~SIDEWALKS~~ AND PUBLIC WAYS ORDINANCE of DALTON GARDENS.

SECTION 2: AUTHORITY

This Ordinance is authorized under the provisions of Idaho Code Title 50 Chapter 3, Section 50-311, 312, 313, 314, and 315, and Idaho Code Title 67 Chapter 65, Section 6509, 6511 and 6528.

SECTION 3: PURPOSE AND APPLICABILITY

The purpose of this Ordinance shall be to protect the health, safety and welfare of the citizens of Dalton Gardens by providing minimum standards for access from private property to public ways.

SECTION 4: AMENDMENTS

CHAPTER 1

STREETS, ~~SIDEWALKS~~ AND PUBLIC WAYS

SECTION:

9-1-1:	Access From Private Property To Public Ways <u>and Private Streets:</u> <u>Approach</u>
9-1-2:	View at Intersections
9-1-3:	Deposits on Public Ways
9-1-4:	Beer, Wine or Liquor Prohibited in Parks, Vehicles
9-1-5:	Violation and Penalty

9-1-1: ACCESS FROM PRIVATE PROPERTY TO PUBLIC WAYS AND PRIVATE STREETS: APPROACH

~~A. Permit Required: It shall be unlawful for any person to fill any ditch or borrow pit or build or construct any bridge, fill or other structure as a means of vehicular, pedestrian or animal traffic to be used as a means of access from the public streets and alleys of the City to private property without having first obtained a permit therefor from the City.~~

~~B. Application for Permit; Approval or Denial:~~

~~1. Contents of Application: Every person desiring a permit to fill any ditch or borrow pit or build or construct any bridge, fill or other structure as a means of access from the public streets and alleys to private property shall file with the City Clerk an application, in writing, designating the materials to be used, the provisions to be made for drainage and the location and width of said fill or structure.~~

~~B) 2. Approval or Denial of Permit: Upon the filing and consideration by the City Council of the said application, the same may be granted, denied or modified by the Council as to location, width and materials to be used, and the Council, if the permit be granted in whole or as modified, shall issue a written permit for the filling of such ditch or construction of any access.~~

~~C. Manner of Construction: It shall be unlawful for any person, upon receiving such a permit, to construct such fill or access in any manner other than the manner prescribed in the permit issued therefore. (Ord. 19, 6-14-66)~~

A. Definitions:

Approach: A point of vehicular access from private property onto a public right of way.

Driveway, Common: A means of vehicular access from private property that serves two or more lots or parcels onto a public or private road or street.

Driveway, Commercial. A means of vehicular access from private property that is zoned commercial or a business that carries an active business license within the City that services one or more lots or parcel onto a public or private road or street.

Driveway, Residential, Community or Public : A means of vehicular access from private residential, community (schools, community centers or churches) or public (property owned by the government) property onto a public or private road or street to a point within an individual lot.

Public Right of way : A Right of Way open to the public and under the jurisdiction of a public agency, where the public agency has no obligation to construct or maintain said right of way for vehicular traffic, nor shall there be any liability for any injury or damage for failure to maintain it or any highway signs. (I.C. 40-117(6), I.C. 40-202(4) and I.C.50-1301(7)).

Right of Way: A parcel of land dedicated or reserved for use as a public way, which normally includes streets, sidewalk, utility or other service functions

B. Permit Required :

1. All vehicular approaches (driveways private, common, commercial or public) require an approach permit.
2. A single approach for one (1) single family dwelling is exempt from a separate approach permit, when shown on the site plan and submitted as part of a building permit for a primary structure. All the requirements of the approach standards shall continue to apply. The number of approaches serving an individual lot or parcel may be restricted to a single two-way approach, and in some cases, common driveways serving two (2) or more lots may be required. The width of an approach shall be determined according to the Dalton Gardens Municipal Code and shall meet the requirements of the local fire protection district .
3. The City Council may approve annual approach permit agreements with utility companies having existing franchise agreements with the City or regulated by the Idaho Public Utilities Commission.

C. Permit Application:

No approach permit under this Chapter shall be issued unless a written application for the issuance of an approach permit is submitted to the City. The application shall be reviewed by the City. The Applicant shall stake the driveway location for a site inspection by the City. The City, per Appendix A (the Local Highway Technical Assistance Council "Manual for Use of Public Right-of-Way, Standard Approach Policy") has the right to require studies to determine impacts and applicable mitigation to impacts. The city clerk shall issue the permit only after all application items have been completed or satisfactorily addressed, all reviews have been completed and all fees have been paid.

D. Approach Standards

1. All vehicular approaches shall be located, designed and constructed according to the Dalton Gardens Municipal Code, as amended and the Local Highway Technical Assistance Council "Manual for Use of Public Right-of-Way, Standard Approach Policy") as amended and adopted by reference to the extent it is not in conflict with the Dalton Gardens Municipal Code, with the exception of application fees as set forth in Section F of this manual.
2. The width of single private driveway approach shall be determined according to the Dalton Gardens Municipal Code and shall meet the requirements of the local fire protection district. At a minimum, the width of the private driveway shall be twenty feet with the driving surface of twelve feet for residential properties.
3. Common residential driveways or approaches that access two or more lots or parcels, commercial accesses and other off-street parking areas shall be laid out and designed according to the Dalton Gardens Municipal

Code Local Highway Technical Assistance Council "Manual for Use of Public Right-of-Way, Standard Approach Policy") as amended and adopted by reference to the extent it is not in conflict with the Dalton Gardens Municipal Code, with the exception of application fees as set forth in Section F of this manual and meet the following additional requirements:

- A. Approach Widths: The minimum driveway and approach widths shall be determined from the operating speed and the classification of the street providing access, the volume of traffic being generated, the potential for truck use, and fire protection requirements. The maximum two-way approach and driveway width shall be forty feet (40') where it can be demonstrated that generated traffic warrants a separate left turn lane for exiting vehicles. A forty foot (40') wide approach may also be considered where heavy truck use prevails.
- B. Pavement markings for persons with disabilities, pathways, crosswalks, stop bars, delineations, turning arrows, bicycles, etc., may be required

E. Permit Fees:

An approach permit fee based on the application shall be charged by the City for issuance of an approach permit under this Chapter and to pay for the cost of inspection of the work by the City, according to a schedule of charges to be adopted by resolution and policy of the City Council.

9-1-2: **VIEW AT INTERSECTIONS:**

A. **Obstructions Prohibited:** It shall be unlawful for the owner or occupant of any property within the City to maintain, construct or permit any building, structure, article or articles of personal property, trees, shrubs and growing plants of a height in excess of thirty six inches (36") from the level of the street and within twenty five feet (25') in any direction from the property lines of said property, which in any manner obstruct or interfere with the vision of a roadway at an intersection or to maintain, construct or permit any such obstruction of view in either the front yard or the side yard of any property adjacent to a public street.

B. **Trees to be Trimmed:** All trees located within twenty five feet (25') of the property lines of any property at an intersection of one or more public streets within the City shall have all foliage, including leaves and branches, trimmed up to a point eight feet (8') above the level of the street under or near said trees.

C. **Removal of Obstructions, Charges and Assessments:** Upon failure or refusal of any person maintaining, constructing or permitting any building, structure, article or articles of personal property, trees, shrubs or growing plants in violation of the provisions of this Section to cut or remove the same, on ten (10) days' notice in writing so to do, the City Council shall have the right to remove or trim any said obstruction or any part thereof and shall assess all of the costs, charges and expenses incurred and incidental thereto to the owner of said property in the same manner as any other special assessment, and

the same shall be collected as any other special assessment. (Ord. 15, 11-9-65)

9-1-3: **DEPOSITS ON PUBLIC WAYS:** It shall be unlawful for any person to cast, throw, dump or deposit any glass, bottles, cans, boards, trash, debris, garbage, junk, dirt, sod, stones, gravel, grass clippings, brush, limbs, branches, foliage, leaves or any other substance whatsoever in or upon the ditches of the streets and highways of the City or any part of the rights of way for such streets and highways. (Ord. 18, 5-10-66)

9-1-4: **BEER, WINE OR LIQUOR PROHIBITED IN PARKS, VEHICLES:** It is unlawful for any person to consume any beer, wine or intoxicating liquor or have in his possession any opened or open containers or receptacles containing beer, wine or intoxicating liquor in any public park within the City or in any motor vehicle moving or parked on a public thoroughfare, street or highway in the City. (Ord. 115, 11-1-90)

9-1-5: **VIOLATION AND PENALTY:** Any violation of the provisions of this Chapter shall be deemed a misdemeanor and shall subject the offender to penalties in accordance with Section 1-4-1 of this City Code. (1991 Code)

SECTION 5: 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 6: CONFLICTING ORDINANCE PROVISIONS

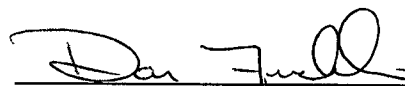
The provisions of this Ordinance shall supersede the provisions of DALTON GARDENS Development Code regarding access private driveways onto public and private streets.

If any conflict occurs between this Ordinance and provisions of the International Building Code or other City Ordinances, this Ordinance shall take precedence.

SECTION 7: EFFECTIVE DATE

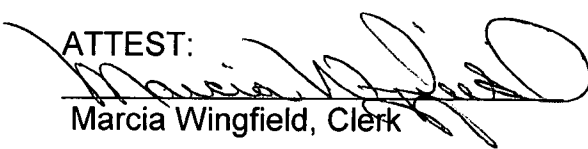
This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 7th day of December, 2006.



Dan Franklin, Mayor

ATTEST:



Marcia Wingfield, Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai, } ss.

Gretchen Herdrich 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.

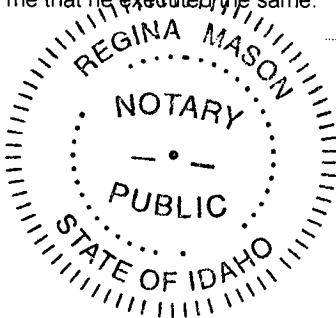
3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Wednesday issue of said newspaper for one consecutive week commencing on the 13 day of December 20 06 and ending on the 13 day of December 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 13 day of December in the year of 2006, before me, a Notary Public, personally appeared Gretchen Herdrich, 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.

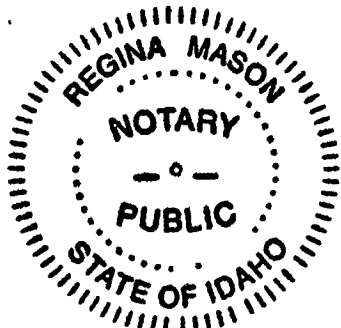
3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Wednesday issue of said newspaper for 1 consecutive day commencing on the 22 day of November 2006, and ending on the 22 day of November 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 Amy McCue. On this 22 day of November in the year of 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 HEARING CITY OF DALTON GARDENS CITY COUNCIL DECEMBER 7, 2006

The Dalton Gardens City Council will hold a public hearing on December 7, 2006 to hear the following Municipal Code amendment:
AN ORDINANCE OF DALTON GARDENS IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE 9 CHAPTER 1 OF THE DALTON GARDENS MUNICIPAL CODE BY ESTABLISHING REGULATIONS FOR STREETS, SIDEWALKS AND PUBLIC WAYS WITHIN THE CITY OF DALTON GARDENS, IDAHO, PROVIDING FOR ACCESS FROM PRIVATE PROPERTY TO PUBLIC WAYS: APPROACH, VIEW AT INTERSECTIONS, DEPOSITS ON PUBLIC WAYS, AND THE PROHIBITION OF BEER, WINE OR LIQUOR IN PARKS, AS WELL AS THE PENALTY FOR VIOLATION, PROVIDING SEVERABILITY AND CONFLICTING ORDINANCE PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.
The public hearing will be held at 6360 4th Street, Dalton Gardens, Idaho at 7:00 p.m. on Thursday, December 7, 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 amendments are available at City Hall during regular office hours (9:00 a.m. to 5:00 p.m., Monday through Friday). 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
City Clerk