

CITY OF DALTON GARDENS  
ORDINANCE NUMBER 198

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING STANDARDS AND MINIMUM REQUIREMENTS FOR UTILITY CUTS IN PUBLIC STREETS, 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: **THAT TITLE 9 CHAPTER 1 BE AMENDED AS FOLLOWS:**

TITLE 9 CHAPTER 1

**STREETS, SIDEWALKS AND PUBLIC WAYS**

SECTION:

- 9-1-1: Access From Private Property To Public Ways and Private Streets:  
Approach
- 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 Street Cut Requirements
- 9-1-~~56~~: Violation and Penalty

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

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: **STREET CUTS:** It is unlawful for any person, association or utility to make or cause or permit to be made any excavation in or under the surface of any public street or other public place for the installation, repair or removal of any pipe, conduit, duct or tunnel or for any other purpose without first obtaining from the City Clerk a written permit to make such excavation and pay such fees as are prescribed by the City to cover the cost of inspection.

A. The City Clerk shall, before issuing such permit, require:

1. Application for the permit shall be made in writing to the City Clerk on forms furnished by the City. The application shall contain such information as the City may require. The application shall include three sets of proposed plans and be filed with the City for processing.
2. If an emergency street cut or excavation is made, application for a permit shall be made on the next working day.
3. If the street cut, opening or excavation is to be made in a State highway, the permittee shall also comply with all lawful regulations of the Idaho Department of Transportation.

B. Exceptions: Exceptions may be made in the following instances:

1. Water or sewer main or service breaks, gas and electric main or service breaks, leaks and similar emergency repairs that occur outside of office hours.
2. Other reasonable exceptions that may be made by the City Council.

C. Standards for Cuts and Restoration: The Applicant shall follow the Dalton Gardens Street Cut Policy, as amended.

D. Review, Inspections and Approval: The City Engineer shall conduct application and plan reviews and conduct inspections as necessary for the work performed.

9-1-56: **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 2: 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 3: CONFLICTING ORDINANCE PROVISIONS**

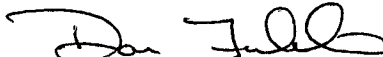
The provisions of this Ordinance shall supersede the provisions of DALTON GARDENS Development Code regarding access private driveways onto public and private streets.

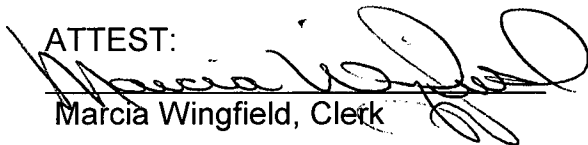
If any conflict occurs between this Ordinance and provisions of the International Building Code or other City Ordinances, this Ordinance shall take precedence.

**SECTION 4: 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 4<sup>th</sup> day of September, 2008.

  
\_\_\_\_\_  
Dan Franklin, Mayor

ATTEST:  
  
\_\_\_\_\_  
Marcia Wingfield, Clerk

# AFFIDAVIT OF PUBLICATION

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

Henry Tucker 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

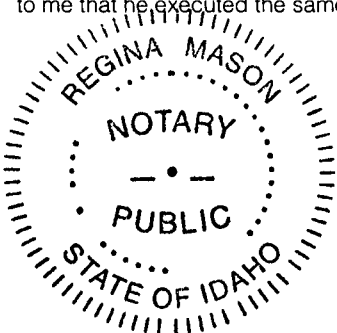
of which the annexed is a printed copy, was published in the regular Wednesday issue of said newspaper for 1 consecutive Week commencing on the 10th day of September, 2008, and ending on the 10th day of September, 2008, and such publication was made as often during said period as said daily newspaper 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 10th day of September in the year of 2008 before me, a Notary Public, personally appeared Henry Tucker, 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**



SUMMARY OF  
CITY OF DALTON GAR-  
DENS, IDAHO

ORDINANCE NO. 198

AN ORDINANCE OF DAL-  
TON GARDENS, IDAHO, A  
POLITICAL SUBDIVISION  
OF THE STATE OF IDAHO,  
AMENDING TITLE 9, CHAP-  
TER 1 TO THE MUNICIPAL  
CODE OF THE CITY OF  
DALTON GARDENS, IDA-  
HO. TO ESTABLISH STAN-  
DARDS AND MINIMUM  
REQUIREMENTS FOR  
UTILITY CUTS IN PUBLIC  
STREETS.

In accordance with Idaho Code  
§50-901A, the following is a  
Summary of Ordinance  
of the City of Dalton Gardens,  
Idaho:

1. Title 9, Chapter 1,  
of the present Dalton Gar-  
dens, Idaho municipal Code is  
amended to add the following:

9-1-5: S T R E E T  
CUTS: It is unlawful for any  
person, association or utility  
to make or cause or permit to  
be made any excavation in or  
under the surface of any pub-  
lic street or other public place  
for the installation, repair or  
removal of any pipe, conduit,  
duct or tunnel or for any other  
purpose without first obtaining  
from the City Clerk a written  
permit to make such excavation  
and pay such fees as are pre-  
scribed by the City to cover the  
cost of inspection.

A. The City Clerk shall,  
before issuing such permit, re-  
quire:

1. Application for the  
permit shall be made in writing  
to the City Clerk on forms fur-  
nished by the City. The appli-  
cation shall contain such infor-  
mation as the City may require.  
The application shall include  
three sets of proposed plans,  
and be filed with the City for  
processing.

2. If an emergency street  
cut or excavation is made, ap-  
plication for a permit shall be  
made on the next working day.

3. If the street cut, open-  
ing or excavation is to be made  
in a State highway, the permit-  
tee shall also comply with all  
lawful regulations of the Idaho  
Department of Transportation.

B. Exceptions: Excep-  
tions may be made in the fol-  
lowing instances:

1. Water or sewer main  
or service breaks, gas and elec-  
tric main or service breaks,  
leaks and similar emergency  
repairs that occur outside of of-  
fice hours.

2. Other reasonable ex-  
ceptions that may be made by  
the  
City Council.

C. Standards for Cuts  
and Restoration: The Applicant  
shall follow the Dalton Gardens  
Street Cut Policy, as amended.

D. Review, Inspections  
and Approval: The City Engi-  
neer shall conduct application  
and plan reviews and conduct  
inspections as necessary for the  
work performed.

2. This Ordinance was  
passed on September 4, 2008.

3. The Ordinance takes  
effect upon publication of this  
Summary in the Coeur d'Alene  
Press.

4. The full text of Or-  
dinance 198 is available at the  
Dalton Gardens City Hall.

DATED this 4th day of Sep-  
tember, 2008.

Daniel Franklin, Mayor

ATTEST:

Marcia Wingfield, Clerk

Legal 4566

September 10, 2008

**DOLAN & JACOBSEN**  
ATTORNEYS AT LAW  
LIBERTY BUILDING  
118 N. 7TH ST. - P.O. Box 1116  
COEUR D'ALENE, IDAHO 83816-1116

September 4, 2008


City of Dalton Gardens  
Attn: Marcia Wingfield, City Clerk  
6360 N.4th Street  
Dalton Gardens, ID 83815

RE: Ordinance 198

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Ordinance No. 198, STANDARDS AND MINIMUM REQUIREMENTS FOR UTILITY CUTS IN PUBLIC STREETS, is true and complete and provides adequate notice to the Public of the contents of said Ordinance.

Very truly yours,



Kenneth T. Jacobsen  
City Attorney

KTJ/rs