

ORDINANCE NO. 207

**AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING THE APPLICATION AND RENEWAL REQUIREMENTS AND PROCEDURES, THE ADDITION OF CHANGE OF USE REQUIREMENTS, AMENDING TIME FRAMES FOR INSPECTIONS, AND AMENDING THE PENALTIES FOR BUSINESS LICENSES WITHIN THE CORPORATE LIMITS OF DALTON GARDENS.**

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

**SECTION 1: AMENDMENTS:** Title 3 Chapter 1 of the Dalton Gardens Municipal Code shall be amended as follows:

Chapter 1  
GENERAL LICENSE AND PERMIT PROVISIONS

**3-1-1: DEFINITIONS:**

When used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**BUSINESS:** Every employment or occupation which occupies the time, attention and labor of persons for purposes of livelihood or for profit.

**PERSON:** Includes bodies politic and corporate, partnerships, associations and corporations. (Ord. 179, 11-3-2005)

**3-1-2: LICENSE REQUIRED:**

No person shall be engaged in, maintain or conduct any business by himself or through an agent, employee or partner to hold himself forth as being engaged in business or occupation, or to solicit patronage therefor, actively or passively, within the city without obtaining a license therefor. (Ord. 179, 11-3-2005)

**3-1-3: APPLICATIONS AND RENEWALS FOR LICENSES AND PERMITS:**

Applications and renewals for all licenses and permits required by this chapter shall be made, in writing, to the city clerk, unless otherwise specifically provided by law. Each application and renewal shall include: state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid, and each application shall contain such additional information as may be required by the issuing official. (Ord. 179, 11-3-2005)

- A. Name and Address of the Applicant
- B. Name and Address of Property Owner or Lessor

- C. Specific use of the business
- D. Location of the Business Including property address and suite number, if applicable
- E. Number of employees associated with the business
- F. A site plan showing the building that houses the business and the parking lot. The parking lot site plan shall show the location, number of parking spaces and size of the parking spaces designated for the business.
- G. The floor plan must differentiate between the square footage of occupied space and storage space.

3-1-4: LICENSE FEE:

The license fee shall be the sum of fifty dollars (\$50.00) per business license. (Ord. 179, 11-3-2005)

3-1-5: INVESTIGATIONS AND INSPECTIONS:

A. Generally: Upon receipt of an application or renewal for a license or permit where laws of the municipality necessitate an inspection or investigation before the issuance of such permit or license, the clerk shall refer such application to the proper officer for making such investigation ~~within forty eight (48) hours of the time of such receipt~~. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within fifteen (15) ~~ten (10)~~ days after receiving the application or a copy thereof.

B. Inspection Of Premises:

1. Inspections Generally: ~~Whenever inspections of the premises used for or in connection with the operation of a business or occupation for which a license or permit has been issued are required or provided for by code or are reasonably necessary to secure compliance with any code provision or to detect violations thereof, it shall be the duty of the licensee, permittee or person in charge of the premises to be inspected to admit thereto for the purpose of making the inspection any officer or employee of the municipality who is authorized or directed to make such inspection at any reasonable time that admission is requested.~~

2. Analyses: Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any code provision or to detect violations thereof, it shall be the duty of the licensee or permittee of the municipality, whose business or occupation is governed by such provision, to give to any authorized officer or employee of the municipality requesting the same sufficient samples of such material or commodity for such analysis upon request.

3. Failure To Allow Inspection Or Analysis; Revocation Of License Or Permit: In addition to any other penalty which may be provided, the mayor may revoke the license or

permit of any licensed proprietor of any licensed business or occupation in the municipality who refuses to permit any such officer or employee who is authorized to make such inspection or take such sample to make the inspection or take an adequate sample of the said commodity or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license or permit shall be revoked for such cause, unless written demand is made upon the licensee or permittee or person in charge of the premises, in the name of the municipality, stating that such inspection or sample is desired at the time it is sought to make the inspection or obtain the sample. (Ord. 179, 11-3-2005)

### 3-1-6: FORMS AND SIGNATURES:

A. Forms: Forms for all licenses and permits and applications therefore shall be prepared and kept on file by the city clerk.

B. Signatures Required: Each license or permit issued shall bear the signatures of the mayor and the city clerk in the absence of any provision to the contrary. (Ord. 179, 11-3-2005)

### 3-1-7: TERMINATION OF LICENSE OR PERMIT:

All annual licenses or permits shall terminate on June 30 where no provision to the contrary is made.

The city clerk shall mail to all licensees and permittees of the municipality a statement of the time of expiration of the license or permit held by the licensee or permittee, if an annual license or permit, sixty (60) days ~~four (4) months~~ prior to the date of such expiration; provided, however, that failure to send out such notice or failure of the licensee or permittee to receive it shall not excuse the licensee or permittee from failure to obtain a new license or permit or the renewal thereof nor shall it be a defense in an action for operation without a license. (Ord. 179, 11-3-2005)

### 3-1-8: BUILDING AND PREMISES:

A. No license shall be issued or renewed for the conduct of any business, and no permit shall be issued or renewed for any thing or act if the premises and building to be used for the purpose do not fully comply with the requirements of the municipality, including the requirements of title 7, chapter 4 of this code.

B. No such license or permit shall be issued or renewed for the conduct of any business or performance of any act which would involve a violation of the zoning ordinance of the municipality or title 7, chapter 4 of this code. (Ord. 179, 11-3-2005)

### 3-1-9: CHANGE OF LOCATION:

In the absence of any provision to the contrary, the location of any licensed business or occupation or of any permitted act may be changed; provided, ten (10) days' notice thereof is given to the city clerk; provided, further, the building<sup>1</sup> and zoning<sup>2</sup> and wastewater<sup>3</sup> requirements of this code are complied with. (Ord. 179, 11-3-2005)

### 3-1-10 CHANGE OF USE:

Any change in use, ownership, intensity or occupancy of an existing structure or use shall require approval of the City.

A change of use may occur, but is not limited to:

- a. A change in the use of the building, structure or site
- b. A change in the use of the business occupying the building
- c. A change in the product sold, leased or rented
- d. A change in the service provided
- e. An increase in the number of employees
- f. An increase in the number of parking spaces
- g. An increase in the water flow or sewage loading

Prior to a change of use on a property or a structure, the property owner, business owner or representative shall notify the City at least ten days prior to the proposed change and provide the City adequate information to determine compliance of applicable codes. Adequate information will include but is not limited to a detailed description of the new use. A review by the City shall be conducted prior to the change of use for review of applicable codes to determine compliance. If the use complies with the municipal codes, the City shall provide a notice of compliance that accompanies the business license.

### 3-1-110: NUISANCE BUSINESSES PROHIBITED:

No business, licensed or not, shall be conducted or operated as to amount to a nuisance in fact as defined in Title 1 Chapter 3. (Ord. 179, 11-3-2005)

### 3-1-124: VIOLATION AND PENALTY:

It shall be unlawful and an infraction misdemeanor, punishable in accordance with the penalties set out in section 1-4-1 of this code, for any person subject to license or permit hereunder to fail to obtain such license or permit by the dates set forth in this chapter. Each day of violation shall constitute a separate offense.

The City shall have all lawful remedies including, but not necessarily limited to, debt collection service, the imposition of reasonable interest and penalties, the imposition of liens pursuant to chapter 5, title 45, Idaho Code, the issuance of "stop work" orders, and the revocation or suspension of any permits or renewals.

**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.

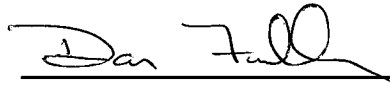
**SECTION 3: CONFLICTING ORDINANCE PROVISIONS**

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

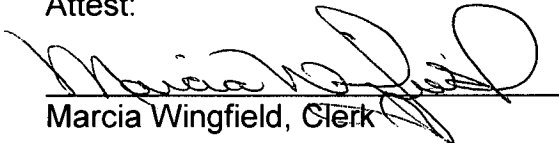
**SECTION 4: EFFECTIVE DATE**

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 1 day of April, 2010.

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

Attest:

  
\_\_\_\_\_  
Marcia Wingfield, Clerk

# AFFIDAVIT OF PUBLICATION

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

Kelli Buley 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.

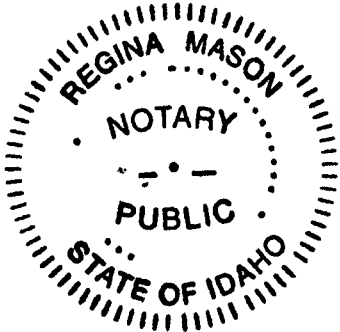
3. The Legal Notice

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 7 day of April, 2010, and ending on the 7 day of April, 2010, 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 Kelli Buley. On this 7 day of April in the year of 2010, before me, a Notary Public, personally appeared Kelli Buley, 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 6/18/15**



## SUMMARY OF CITY OF DALTON GARDENS, IDAHO ORDINANCE NO. 207 AMENDING THE BUSINESS LICENSE APPLICATION AND RENEWAL REQUIREMENTS AND PROCEDURES, THE ADDITION OF CHANGE OF USE REQUIREMENTS, AMENDING TIME FRAMES FOR INSPECTION, AND AMENDING PENALTIES

In accordance with Idaho Code §50-901A, the following is a Summary of Ordinance 207 of the City of Dalton Gardens, Idaho:

1. Ordinance 207 amends the business license and permit provisions contained in Title 3, Chapter 1 of the Dalton Gardens City Code.
  2. The ordinance now applies to renewals as well as applications and sets forth the specific information required to be given to the City with each application or renewal.
  3. The time for inspection reports to be completed upon application or renewal is changed to fifteen (15) days, and licensees shall permit inspection upon reasonable notice.
  4. The ordinance adds Section 3-1-10 providing that any change in use, ownership, intensity, or occupancy of an existing business shall require approval of the City, sets forth what constitutes a change in use, requires the business owner to notify the City ten (10) days prior to the proposed change, provides for review by the City, and for issuance of a notice of compliance to accompany the business license.
  5. The ordinance amends any violation from a misdemeanor to an infraction and provides for remedies including collection procedures, interest and penalties, imposition of liens, "stop work" orders, and revocation or suspension of permits or renewals.
  6. The ordinance takes effect upon publication of this summary in the Coeur d'Alene Press.
  7. A full text of Ordinance 207 is available at the Dalton Gardens City Hall.
- DATED this 1st day of April, 2010.  
Daniel Franklin, Mayor  
ATTEST:  
Marcia Wingfield, Clerk  
Legal 9512  
April 7, 2010

PHILIP E. DOLAN  
KENNETH T. JACOBSEN

(208) 664-8258  
FAX (208) 667-9631

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

March 23, 2010

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

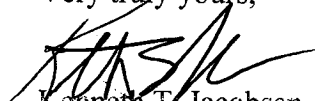
RE: Ordinance 207

Dear Marcia:

The enclosed summary of Ordinance 207 is true and complete and, upon publication in the official newspaper designated by the City of Dalton Gardens, provides adequate notice to the public of Dalton Gardens Ordinance No. 207.

This letter shall be filed with the Ordinance in the records of Dalton Gardens, Idaho.

Very truly yours,

  
Kenneth T. Jacobsen  
City Attorney

KTJ:rs  
Enclosure