

ORDINANCE NO. 213

AN ORDINANCE OF THE CITY OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE SIX (6) CHAPTER SIX (6) OF THE DALTON GARDENS MUNICIPAL CODE IN REGARD TO SHORT SUBDIVISIONS; ALLOWING AND REGULATING LOTS OF LESS THAN ONE (1) ACRE IN THE COMMERCIAL AND/OR LIGHT INDUSTRIAL ZONES OF THE CITY

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

SECTION 1: AMENDMENTS: Title 6, Chapter 6 of the Dalton Gardens Municipal Code shall be amended as follows:

INTENT AND PURPOSE

The City of Dalton Gardens, Idaho may, in the future, be constructing sewer lines adjacent to and within the Commercial District of the City, and property in the Commercial District which may subsequently be re-zoned to Light Industrial, (hereinafter "Commercial District") to be hooked to the City of Coeur d'Alene's municipal sewer collection and treatment facility ("centralized sewer system"). When the property presently within the Commercial District of the City is connected, or has the right to be connected to the centralized sewer system, the reason for retaining one (1) acre minimum size commercial parcels on septic tanks is no longer as appropriate, thus the City will allow smaller lots with less than one hundred ten (110') feet of frontage on a public road as set forth herein.

Chapter 6
SHORT SUBDIVISIONS

6-6-1: APPLICATION OF PROVISIONS; EXEMPTIONS:

A. Every division of land for the purpose of sale, ~~lease~~ or transfer into two (2), three (3) or four (4) lots, tracts or parcels within the incorporated area of Dalton Gardens, where no new dedications are required, shall proceed in compliance with this chapter.

B. The provisions of this chapter shall not apply to the following:

1. Any division of land for the purpose of adjusting the boundary line or the transfer of land between two (2) adjacent property owners which does not result in the creation of any additional building site.
2. Any division of land made by testamentary provision, the laws of descent or upon court order.

Council Adopted Subdivision Ordinance
January 6, 2011

3. Any acquisition or division of land by a public agency for public right of way purposes.
4. Any division of land that is proceeding in compliance with this title as it now exists or is subsequently amended. (Ord. 145, 5-7-1998)

6-6-2: APPLICATION FOR SHORT SUBDIVISION:

A. Form And Fees: Any person who undertakes a “short subdivision” as defined in section 6-1-4 of this title shall submit to the commission a completed application form provided by the commission accompanied by a nonrefundable fee in an amount to be established by resolution of the city council.

B. Contents Of Application; Plats And Plans Required: The drawing, map and accompanying material submitted with an application for short subdivision approval shall include, at a minimum, the following information:

1. The name, address and telephone number of the applicant and the property owner if different than the applicant.
2. A legal description of the entire area being subdivided and a legal description for each of the proposed lots.
3. The size of each lot indicated by square footage computation sufficiently accurate to determine that each lot meets the minimum established lot size requirements.
4. A copy of any existing or proposed restrictions or covenants. (Ord. 145, 5-7-1998)
5. A survey by a licensed engineer or surveyor of the property containing the following: (Ord. 155, 1-4-2001)
 - a. Boundaries and dimensions of the entire area being subdivided and the proposed boundaries and dimensions of the proposed lots.
 - b. All existing buildings and structural improvements.
 - c. The location of any roads, easements or rights of way that exist or are proposed to serve the short subdivision.
 - d. Proposed access and approach areas.
 - e. Location of all water and sewer lines servicing the proposed lots.
 - ~~f.~~ f. A space for approval of the commission.

C. Approval Or Denial Of Application:

1. Distribution Of Plats And Plans: Upon receipt of a completed application for short subdivision approval, the commission shall forward copies of the proposal to the following agencies for comment:

a. Dalton water association.

b. Panhandle health district.

c. Kootenai County Fire & Rescue

d. Other appropriate agencies, including the City of Coeur d'Alene wastewater treatment official and the City of Coeur d'Alene street department or similar agency having jurisdiction over granting approaches off of Government Way.

Agencies requested to review a proposed short subdivision will have thirty (30) days upon receipt of a request for review in which to return their written comments. Failure by an agency to reply within the established review period shall be interpreted to mean that the particular agency has no concern over the proposal.

2. Decision; Time Limitation: Within thirty (30) days after receipt of a completed application or at its next regular meeting, the commission shall approve or disapprove the proposed short subdivision and shall immediately notify the applicant, in writing, of such decision. If an application is disapproved, the commission shall cite the specific reason for disapproval.

3. Requirements For Approval: The commission shall not approve a short plat unless:

a. The proposed lots meet all established lot size and width requirements.

b. Adequate water supply and sewage disposal are available.

c. The decision to approve a short subdivision will not be contrary to the public interest.

d. Newly dedicated roads are improved and paved according to standards set by Lakes highway district.

e. No cul-de-sacs or dead end streets are allowed, unless they comply with this subdivision ordinance, and shall only be allowed in the commercial zone.

4. Filing: Upon approval of a short subdivision, the commission shall transmit a copy of the approved application and plans to the county recorder for filing. The fee collected at the time the application was submitted will be used to cover the cost of filing. The commission shall also forward a copy of the approved short subdivision to the city clerk for permanent file at the city clerk's office. (Ord. 145, 5-7-1998)

D. Variance Request: In the event the application for short subdivision does not meet the requirements of section 6-6-3 of this chapter, the person requesting the short subdivision shall apply for a variance before the city council and the provisions of section 6-5-4 of this title shall apply to the variance request. (Ord. 155, 1-4-2001)

6-6-3: MINIMUM LOT SIZE AND WIDTH REQUIREMENTS:

Unless connected to a centralized sewer system, A-all lots within a short subdivision shall have one hundred ten feet (110') frontage on a public street and contain not less than one acre, less such portions which may have been granted, dedicated or conveyed for use as road right of way or other easement. Nonconforming lots shall not be created. (Ord. 203, 7-2-2009) The frontage requirements for lots with centralized sewer system availability (and minimum lot sizes allowed for such lots) shall be as follows:

6-6-3 (a): COMMERCIAL LOTS: Ten thousand (10,000) square feet with frontage of fifty (50') feet on a public or private street or access easement.

(b): LIGHT INDUSTRIAL LOTS: Twenty Thousand (20,000) square feet with frontage of fifty (50) feet on a public or private street or access easement.

(c) FIRE LANE: Every parcel of land used for commercial purposes shall provide a lane of not less than eighteen feet (18') of unobstructed driving surface from a public street to the rear property line. A fire lane shared by adjacent property owners by a mutual recorded agreement may be allowed. Said lane shall be a designated fire lane and shall remain open at all times. All access to structures including turn-around shall meet the requirements of the International Building Code and the International Fire Code.

(d) The site performance standards for development of any commercial subdivided lots shall be those site performance standards in effect at the time the short plat is approved. Site performance standards include, but are not limited to, set-backs, buffering, parking, design standards, landscaping, and noise and/or light abatement.

6-6-4: ADMINISTRATION OF PROVISIONS:

The planning and zoning commission, herein referred to as the commission, is vested with the authority to summarily approve or disapprove proposed short subdivisions. The commission shall prepare and require the use of such forms as necessary to administer this chapter. (Ord. 145, 5-7-1998)

6-6-5: APPEALS:

A. Time For Appeal: Any decision of the commission may be appealed to the council by the applicant or any interested party within thirty (30) days following the issuance of the decision. The notice of appeal shall be on a form provided by the commission and shall be filed with the council.

B. Council Action: The council shall, at the next regularly scheduled meeting following the receipt of an appeal, consider all matters pertaining to the contested decision together with all other evidence deemed appropriate and shall affirm or reverse the decision of the commission or shall remand the matter to the commission for further investigation. (Ord. 145, 5-7-1998)

6-6-6: VIOLATION AND PENALTIES:

A. No person shall sell, lease or transfer any land subject to the requirements of this chapter until a short subdivision has been approved and filed.

B. Violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor and subject the offender to penalties in accordance with section 1-4-1 of this code. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may be found guilty of a separate offense.

C. Nothing herein contained shall prevent the council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of the Idaho Code.

D. Further, no short subdivision required by this chapter shall be recorded by the county recorder until such short subdivision has received approval by the commission.

E. No public board, agency, commission, official or other authority shall authorize any improvements on any land in violation of this chapter. (Ord. 145, 5-7-1998)

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.

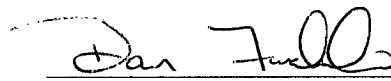
SECTION 3: CONFLICTING ORDINANCE PROVISIONS

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

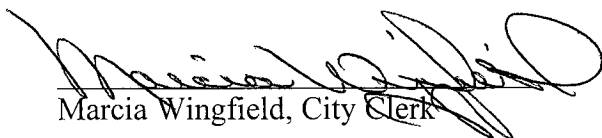
This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 6th, day of January, 2011.



Dan Franklin, Mayor

ATTEST:



Marcia Wingfield, City Clerk

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Mylene Farmer 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

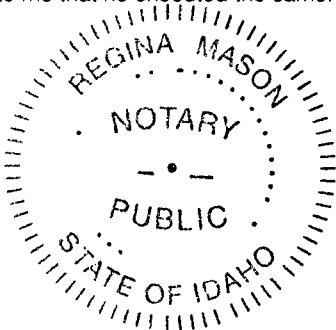
of which the annexed is a printed copy, was published in the regular issue of said newspaper for Wednesday consecutive day commencing on the 12 day of January, 2011, and ending on the 12 day of January, 2011, and such publication was made as often during said period as said Daily newspaper was regularly 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 12 day of January, in the year of 2011, before me, a Notary Public, personally appeared Mylene Farmer, 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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Eugene Famer 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

Woods voice

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 December 2010 and ending on the 22 day of December 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. On this 22 day of December in the year of 2010, before me, a Notary Public, personally appeared Eugene Famer, 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.

NOTICE OF PUBLIC HEARING CITY OF DALTON GARDENS CITY COUNCIL

January 6, 2011

The Dalton Gardens City Council will hold a public hearing on January 6, 2011 to hear the following Municipal Code amendment:

AN ORDINANCE OF THE CITY OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE SIX (6) CHAPTER SIX (6) OF THE DALTON GARDENS MUNICIPAL CODE IN REGARD TO SHORT SUBDIVISIONS; ALLOWING AND REGULATING LOTS OF LESS THAN ONE (1) ACRE IN THE COMMERCIAL AND/OR LIGHT INDUSTRIAL ZONES OF THE CITY

The public hearing will be held at 6360 4th Street, Dalton Gardens, Idaho at 6:00 p.m. on Thursday, January 6, 2011. 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.

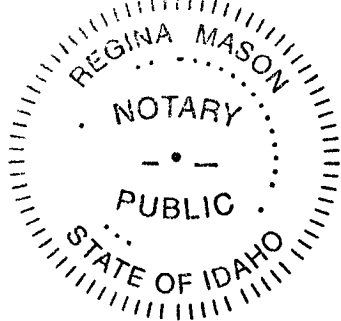
Attest:

Marcia Wingfield

City Clerk

Legal 1642

December 22, 2010



MY COMMISSION EXPIRES 6/18/15

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

January 6, 2011


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

RE: Ordinance 213

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Ordinance No. 213, SHORT SUBDIVISIONS, 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