

TITLE 6, CHAPTER 6 SHORT SUBDIVISIONS

ORDINANCE NUMBER 225

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE 6 CHAPTER 6, MORE SPECIFICALLY PROHIBITING SHORT SUBDIVISIONS IN THE COMMERCIAL DISTRICT, AMENDING APPLICATION REQUIREMENTS AND ADMINISTRATIVE PROCESS, AND PROVIDING FOR PENALTIES, SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1: Title 6, Chapter 6 of the Dalton Gardens Municipal Code is hereby amended:

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

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

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.
3. Any acquisition or division of land by a public agency for public right of way purposes.
4. Any application for a division of land that is deemed complete prior to the adoption of this ordinance shall be vested under the previously adopted ordinance.

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.

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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.

5. A survey by a licensed engineer or surveyor of the property containing the following:

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. 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 and 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

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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.

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. 213, 1-6-2011)

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

All lots within a short subdivision shall have one hundred ten feet (110') frontage on a publically created and maintained 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.

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. 213, 1-6-2011)

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.

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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. 213, 1-6-2011)

6-6-6: VIOLATION AND PENALTIES:

A. No person shall sell 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, sub-divider, 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.

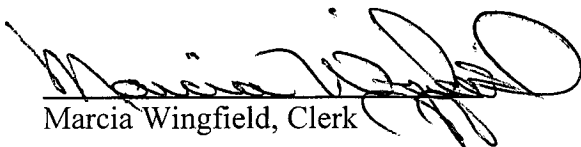
D. Further, no short subdivision required by this chapter shall be recorded by the county recorder until such short subdivision has received approval by the commission.

E. No public board, agency, commission, official or other authority shall authorize any improvements on any land in violation of this chapter. (Ord. 213, 1-6-2011)

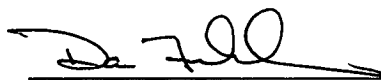
EFFECTIVE DATE

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

Dated: November 1, 2012



Marcia Wingfield, Clerk



Dan Franklin, Mayor

Adopted by City Council
November 1, 2012

AFFIDAVIT OF PUBLICATION

SUMMARY OF
CITY OF DALTON GARDENS,
IDAHO
ORDINANCE NO. 225

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

Amber Tice 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 Wed
issue of said newspaper for 1 consecutive Week
commencing on the 7th day of November 2012, and
ending on the 7th day of November 2012, 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 Amber Tice
On this 7th day of November in the year of 2012, before me,
a Notary Public, personally appeared Amber Tice,
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.

Katrina George

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

In accordance with Idaho Code §50-901A, the following is a Summary of Ordinance 225 of the City of Dalton Gardens, Idaho:

1. This is an ordinance of Dalton Gardens, Idaho, a political subdivision of the State of Idaho, which amends Title 6 Chapter 6 of the Dalton Gardens municipal code known as the SHORT SUBDIVISION ORDINANCE OF THE CITY OF DALTON GARDENS.

2. The ordinance sets forth a procedure for platting and provides that commercial property subdivisions are not within the purview of this Ordinance and provides for severability and an effective date. The Ordinance also provides for penalties.

3. This Ordinance was passed on November 1, 2012.

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

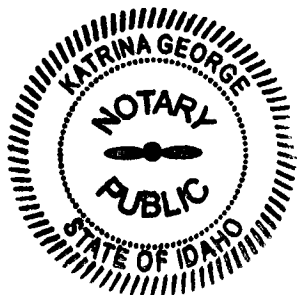
5. The full text of Ordinance 225 is available at the Dalton Gardens City Hall.

DATED this 1st day of November, 2012.

_____/s/
Daniel Franklin, Mayor

ATTEST:

_____/s/
Marcia Wingfield, Clerk



MY COMMISSION EXPIRES 8/29/17

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

November 1, 2012

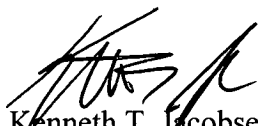
City of Dalton Gardens
Attn: Marcia Wingfield, City Clerk
6360 N.4th Street
Dalton Gardens, ID 83815

RE: Ordinance No. 225

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Dalton Gardens Ordinance No. 225, SHORT SUBDIVISION ORDINANCE, amending Title 6, Chapter 6, of the Dalton Gardens Municipal Code 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