

SEWER ORDINANCE

ORDINANCE NUMBER 224

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, OF THE DALTON GARDENS MUNICIPAL CODE, ADDING TITLE 7 CHAPTER 6 ENTITLED MUNICIPAL SEWER ORDINANCE OF DALTON GARDENS; ADDING A PURPOSE, ADDING USER CHARGES, SERVICE CHARGES AND FEES, ADDING BILLING PROCEDURES, WHEN SEWER SERVICE CONNECTION IS REQUIRED, CAPITALIZATION FEES, AND PROVIDING PENALTIES, SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1: AMENDMENTS: Title 7 Chapter 6 of the Dalton Gardens Municipal Code shall be added as follows, to be known as the Dalton Gardens Sewer Use Ordinance:

7-6-1: PURPOSE OF PROVISIONS:

It has been determined that a commercial/industrial sewer main has been or will be installed under Government Way, and that the commercial and/or light industrial areas of the City will have such sewer line available to connect to for sanitary sewage disposal. The City of Coeur d'Alene has required, as a part of the commercial/industrial users in the City of Dalton Gardens connecting to the City of Coeur d'Alene's wastewater collection and treatment system, that an Ordinance be passed which will be no less stringent and as broad in base as the City of Coeur d'Alene's sewer use ordinance.

Further, it has been determined that the cost of operation, maintenance and improvement of the wastewater collection and treatment works is largely dependent upon the quantity and quality of effluent discharged by the various users into the system; and that the charging of a fee based upon the quantity of wastewater discharged and the strength of effluent discharged by such users will result in an equitable distribution of the costs amongst the users. To equitably establish such fees, sewer users have been classified in several classes according to volume and strength of effluent received.

7-6-2: DEFINITIONS:

A. "Sewer Service Connection" is the pipe, fittings and appurtenances from the sewer main to the pipe extended five feet beyond the building foundation

B. "Building Plumbing" is the sewer plumbing within the building foundation and extending five feet beyond the building foundation.

C. "Sewer Main" is the public or non-public sewer main designed and constructed in accordance with IDEQ rules.

D. "Commercial" or "Industrial" shall have the same meaning for the purpose of this ordinance.

7-6-3: PRETREATMENT CONTROLS AND WASTEWATER REQUIREMENTS: After passage of this ordinance, all commercial/industrial uses of the City of Coeur d'Alene sewer system are subject to the pretreatment controls and those provisions in Uniform Wastewater Requirements, Coeur d'Alene Municipal Code Title 13, Chapters 13.20.1.1 through 13.20.13.1, now in effect or as subsequently amended.

7-6-4: CONNECTION TO CITY OF COEUR D'ALENE SEWER SYSTEM REQUIRED;
WHEN:

The owner of any property within the 2012 Commercial District of the city of Dalton Gardens as shown in Exhibit A, the use of which property results in the generation or existence of sewage, which property abuts a public street (including but not limited to Dalton Avenue, Hanley Avenue, Prairie Avenue, Canfield Avenue, Aqua Circle, Deerhaven Avenue, Wilbur Avenue and/or Government Way), alley, or easement in which there is a municipal sewer collector line shall at the owner's expense connect the sewage generating facilities on such property to the city of Coeur d'Alene sewer system if any of the following conditions hereafter exist:

- A. A failing septic system as defined in IDAPA 58.01.03.003.13;
- B. The actual or proposed generation of Non-Domestic Wastewater on the parcel;
- C. The actual or proposed wastewater flow over 250 gallons per day per acre, subject to the provisions of this Ordinance and the current Sewer Management Agreement with Panhandle Health District on file with the City Clerk;
- D. A new use on the property including a new structure with plumbing;
- E. A parcel subdivision;
- F. Expiration of the 15 year grace period for connection, or September 30, 2027, whichever occurs first.

7-6-5: FAILURE TO CONNECT; CONNECTION MADE BY CITY OF DALTON
GARDENS

Should the owner of any property within the Commercial District of the city of Dalton Gardens, described in the foregoing section, fail to connect all sewage generating facilities on such property to the sewer system of the city of Coeur d'Alene after notice within any required time limit, the city of Dalton Gardens may cause such facilities to be so connected and assess the cost of connecting such facilities to the owner of the property on which the facilities are located, which costs shall thereafter be a lien on said property and may be collected as provided by Idaho Code section 50-1008 or in any other manner allowed by law. Alternatively, the City of Dalton Gardens shall have the right to institute action for injunction, abatement, or other action to prevent, enjoin, abate or remove such unlawful use, and the City of Dalton Gardens shall have the further right to withhold or refuse to renew a business license until compliance is achieved.

7-6-6: CITY OF COEUR D' ALENE IS DESIGNATED AGENT:

City of Dalton Gardens designates City of Coeur d'Alene as the agent of City of Dalton Gardens for the purposes of implementation and enforcement of this City of Dalton Gardens sewer use ordinance against commercial/industrial uses located in City of Dalton Gardens. City of Coeur

d'Alene may take any action under this City of Dalton Gardens sewer use ordinance that could have been taken by City of Dalton Gardens, including the enforcement of the ordinance.

7-6-7: AGENT DUTIES:

City of Coeur d'Alene, on behalf of and as agent for City of Dalton Gardens, will perform technical and administrative duties necessary to implement and enforce City of Dalton Gardens sewer use ordinance. City of Coeur d'Alene will: (1) update the industrial waste survey; (2) issue permits to all industrial users required to obtain a permit; (3) conduct inspections, sampling and analysis; (4) take all appropriate enforcement action as outlined in City of Coeur d'Alene's enforcement response plan and provided for in City of Dalton Gardens sewer use ordinance; (5) issue plumbing permits and collect plumbing permit fees, review plumbing plans and perform plumbing inspections; and (6) perform any other technical or administrative duties the cities deem appropriate. In addition, City of Coeur d'Alene may, as agent of City of Dalton Gardens, take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination.

7-6-8: CAPITALIZATION FEE SCHEDULE DESIGNATED:

A. The owners of property connecting to the Coeur d'Alene sewer system, directly or by connecting to a private system that connects to the city of Coeur d'Alene sewer system shall be assessed a sewer capitalization fee in an amount as set forth by the City of Coeur d'Alene Capitalization Fee Schedule under Title 13 Chapter 16 of the Coeur d'Alene Municipal Code.

7-6-9: PAYMENT OF CAPITALIZATION FEE:

The sewer capitalization fee provided in the Coeur d'Alene Municipal Code Title 13, Chapter 16 shall be paid to the city of Coeur d'Alene treasurer upon connection to the Coeur d'Alene City sewer under the criteria as set forth in Coeur d'Alene Municipal Code Title 13 Chapter 16.050.

7-6-10: CITY OF COEUR D'ALENE WASTEWATER FUNDS:

All sewer capitalization fees and user service charges received and collected under authority of this chapter shall be deposited and credited in their respective special funds designated as the City of Coeur d'Alene Wastewater funds.

7-6-11: DISPOSITION OF FUNDS:

All charges received and collected pursuant to this chapter, other than plumbing permit fees, shall be by the city of Coeur d'Alene treasurer deposited and credited to either a special fund, to be designated as the sewer system capital improvement fund, which fund is established pursuant to Idaho Code section 50-236, or the Wastewater user charge fund. These sewer system funds shall be used only for uses authorized by Idaho Code or City of Coeur d'Alene Municipal Code.

7-6-12: USER CHARGES:

The City of Coeur d'Alene shall assess commercial/industrial user's charges for wastewater

use, collection, and treatment as determined by the City of Coeur d'Alene under its Municipal Code Title 13 Chapter 8.

7-6-13: SERVICE CHARGES AND FEES:

The monthly service charges or fees levied and assessed for use of the Coeur d'Alene sewer system shall be as set by the Coeur d'Alene Municipal Code Title 13 Chapter 8, and as provided by sections 13-8-040 and 13-8-050, (as amended) and include fees and charges for billing, delinquency, and penalty charges.

7-6-14: UNPAID FEES AND CHARGES; LIEN:

The owner, to the extent permitted by law, and occupant of any such premises using the sanitary sewer system shall be jointly and severally liable for all fees and charges assessed by the city of Dalton Gardens. Such charges shall become a lien upon and against the property against which the charge or fee is levied to the extent permitted by the laws of the state and the ordinances of the city of Dalton Gardens or the city of Coeur d'Alene and may be collected in any manner permitted or hereafter permitted by law.

7-6-15: DELINQUENCY:

In case of nonpayment or delinquency in payment of charges provided herein, the city of Dalton Gardens may discontinue sewer services to the property for which such charge is made.

7-6-16: DISCONNECTION FOR NONPAYMENT:

In case of nonpayment or delinquency in the payment of sewer charges or fees imposed, the wastewater department of the city of Coeur d'Alene is authorized and directed to, upon ten (10) days' notice to the owner, occupant or person in charge of the premises, disconnect and plug the sewer connection with the sewer system of the city of Coeur d'Alene and such sewer shall remain disconnected until such fees, including a reconnection fee of two hundred dollars (\$200.00), has been paid to the treasurer of the City of Coeur d'Alene.

7-6-17: RESPONSIBILITY FOR INDIVIDUAL SEWER SERVICE CONNECTIONS:

The lot owner is responsible for maintenance and replacement as necessary for the sewer service connection that connects a dwelling or business to the connection at the public sewer main including any necessary maintenance and/or replacement within the public rights of way and public utility easements. Any work within the public rights of way or public utility easements must be approved by the city of Coeur d'Alene engineer or his/her designee prior to the commencement of work.

7-6-18: VIOLATION; PENALTY:

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be subject to penalty as provided for in Title 1 Chapter 4 of this 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

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

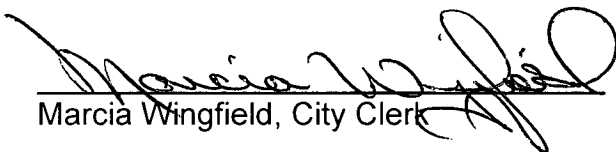
This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 1st day of November, 2012.



Dan Franklin, Mayor, Dalton Gardens

ATTEST:



Marcia Wingfield, City Clerk

AFFIDAVIT OF PUBLICATION

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. 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.

SUMMARY OF CITY OF DALTON GARDENS, IDAHO ORDINANCE NO. 224

In accordance with Idaho Code §50-901A, the following is a Summary of Ordinance 224 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 adds Title 7 Chapter 6 entitled MUNICIPAL SEWER ORDINANCE OF DALTON GARDENS to the Dalton Gardens municipal code, which adds a purpose, user charges, service charges and fees, billing procedures, and provides for when sewer service connection is required and capitalization fees.

2. The ordinance also provides for penalties, severability and an effective date.

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 224 is available at the Dalton Gardens City Hall.

DATED this 1st day of
November, 2012. /s/

Daniel Franklin, Mayor

ATTEST:

/s/
Marcia Wingfield, Clerk
Legal 7472
November 7, 2012



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. 224

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Dalton Gardens Ordinance No. 224, SEWER ORDINANCE, adding Title 7, Chapter 6 to 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