

TITLE 5, CHAPTER 10, ADMINISTRATION AND ENFORCEMENT

ORDINANCE NUMBER 218

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE 5, CHAPTER 10 OF THE DALTON GARDENS MUNICIPAL CODE TO ADD DEFINITIONS AND STANDARDS FOR SITE PLANS AND AMEND THE SECTION FOR THE ADMINISTRATION AND PROCESSING OF PUBLIC HEARINGS AND APPEALS OF THE DALTON GARDENS MUNICIPAL CODE UNLESS OTHERWISE SPECIFIED AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1: Title 5, Chapter 10 of the Dalton Gardens Municipal Code is hereby repealed and replaced by the following:

Chapter 10
ADMINISTRATION AND ENFORCEMENT

5-10-1: ENFORCEMENT OFFICIALS:

5-10-2: PLANS AND SPECIFICATIONS:

5-10-3: PUBLIC HEARINGS:

5-10-4: APPEALS

5-10-5: ACTION BY CITY COUNCIL INVOLVING REZONES, SPECIAL USES AND AMENDMENTS:

5-10-6: SCHEDULE OF FEES, CHARGES AND EXPENSES:

5-10-7: VIOLATIONS AND PENALTIES:

5-10-1: ENFORCEMENT OFFICIALS:

It shall be the duty of the City Clerk and Building Inspector to see that this Title is enforced through proper legal channels. (~~Ord. 105, 1-7-89~~)

5-10-2: PLANS AND SPECIFICATIONS:

A. General. No permit shall be issued for the construction or alteration of any building or part thereof, unless the plans and specifications for intended use of such building conform in all respects with the requirements stated herein. (~~Ord. 105, 1-7-89~~)

B. Site Plan:

1. All applications for building permits shall be accompanied by a plot site plan showing the actual dimensions of the lot to be built upon, legal description, the

~~size, use and location of all existing buildings and the building or buildings to be erected under authority of the permit applied for and such other information as may be necessary to show compliance with the provisions of this Title. (Ord. 105, 1-7-89; 1991 Code)~~

2. The following types of permits require a site plan that is delineated in section 5-10-2. B 3. Other permits or applications such as primary commercial buildings, special use permits and variances may require additional information as requested by the City.
 - a. Commercial alterations and additions;
 - b. Change of use not affecting the intensity or change of location of a commercial or industrial parking lot, truck loading or vehicle access;
 - c. Residential primary structures, additions and alterations and detached accessory structures without new vehicular access.
 - d. All other projects shall be subject to Project Review per Title 5 Chapter 3.
3. The following site plan drawing is required and may be obtained either on forms provided by the City or by a set of scaled drawings provided by the Applicant. The scale of the drawing shall be at a minimum 1" = 10' to a maximum scale of 1" = 50' and contain the following:
 - a. Address of project
 - b. Owner's name
 - c. Legal description of the property, including any easements and project numbers of short plats or lot boundary adjustments
 - d. Kootenai County Assessor's parcel number (property tax account #)
 - e. Kootenai County recording instrument number for any easements or other pertinent legal features
 - f. North arrow
 - g. Property lines, dimensions and bearings
 - h. Identification and right-of-way (ROW) and roadway widths of adjacent streets (by name), alleys or other adjacent public property

- i. Curbs and sidewalks if applicable: type, location, dimensions.
 - j. Street and alley improvement type (asphalt, concrete, gravel, etc.).
 - k. Location of the primary entrance to each building.
 - l. If existing or proposed building structures (e.g.: building overhangs, chimneys, gutters, underground parking, etc.) extend into, over or under the ROW, a utility easement, or known utility for which there is no easement, the dimensions of these structures and their locations must be provided.
 - m. Location and dimensions of all driveways, parking areas, and other paved areas (existing and proposed).
 - n. General location, size and shape of any structures presently on the site and of those proposed for construction; including buildings, retaining walls, patios, decks, porches, driveways, pools, spas and other water features, septic tank and drainfield locations (existing and proposed).
 - o. Dimensions showing front, side and rear distances from structures to property lines, distances between structures, porches and decks (existing and proposed).
4. The following supplemental information is required:
- a. In narrative form, identification of exactly what work is to be done, including the changes that are proposed to the physical features of the site or existing structures. (Clearly distinguish between existing and proposed features on the site plan drawing). Statements such as "Existing wall to remain" are acceptable call-outs for the site plan. Clearly indicate by citation or notation the explanation with of work to be done with the site plan drawing.
 - b. Signature of preparer and relationship to owner AND a certification stating that this is a true and accurate representation of the site and that the preparer takes responsibility for the accuracy of the information.
 - c. If not prepared by the property owner, a notarized authorization by the property owner that the preparer can act on behalf of the property owner.
- G.5. A record of all such applications and ~~plot~~, site plans and supplemental information shall be kept in the office of the City Clerk.

5-10-3: PUBLIC HEARINGS:

Whenever a hearing is required by this Title for a special use permit, variance, appeal or amendment, such hearing shall be held at least once to receive testimony from

interested and affected agencies and citizens. At least fifteen (15) days prior to the hearing, notice of the time, place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be provided to property owners whose property is within or adjacent to the area bounded by lines three hundred feet (300') from the external boundaries of the property under consideration. These are only the minimum hearing notice requirements and specific requirements are delineated below. The Council or Commission may, when deemed appropriate, provide additional notice. (Ord. 105, 1-7-89)

5-10-3.1: HEARINGS, GENERAL:

- A. Hearings before the Council or Commission shall be open to the public.
- B. Hearings before the Council or the Commission are either legislative or quasi-judicial in nature.
 - 1. Legislative hearings are conducted for the purpose of receiving public comment in aid of formulating City policies and ordinances.
 - 2. Quasi-judicial hearings are conducted for the purpose of resolving contested matters concerning specific parties or properties, including, but not limited to, applications for change of zone, subdivision of land, special (conditional) use permit, and variance of zoning standards.
- C. The criteria for making decisions on applications and permits is found under the applicable Title and Chapter.

5-10-3.2: HEARING NOTICES:

- A. Whenever notice is required under this Title it shall be in writing and shall provide the following information:
 - 1. The address of the property, or another general description by which the public can identify the property, that is the subject of the hearing;
 - 2. The present land use of the property;
 - 3. A description of the action or relief sought; and
 - 4. The date, time, and place of the hearing.
- B. To assist the City in providing all required notices, the applicant or appellant shall provide to the City the correct names and addresses of all adjoining property owners which are defined in Chapter 8, Section 3 of this Title as owners who own property within three hundred feet (300') of the subject property on the application.

Note: The applicant bears the burden of proof to provide accurate information to the City to notify the adjoining property owners. If adjoining property owners are not notified, the hearing will not be held, the City will not be liable for the inaccurate information and the applicant will be responsible for any additional costs the City incurs to hold additional public hearings.

5-10-3.3: POSTED SITE NOTICES (SIGNS):

A. Posted notices are required for applications requesting:

1. Special use permits; and
2. Rezones.

B. When a posted notice is required it shall be the responsibility of the applicant to install or erect a sign and attached notice furnished by the City that meets the following specifications:

1. The sign shall be placed so as to be easily readable by the motoring public;
2. The sign shall be installed on the subject property adjacent to the most heavily traveled public way;
3. The sign shall be posted at least fifteen (15) days before the scheduled date of the public hearing; and

C. The applicant shall remove the sign within seven (7) days following the public hearing.

5-10-4: APPEALS:

A. General Provisions:

1. Unless otherwise specifically provided for in this Title, any person aggrieved by any written action of an employee of the City with regard to the enforcement of this Title or by a final written order or decision of the Commission with regard to the enforcement of this Title may appeal any such action, order, or decision.
2. All such appeals shall be heard and decided upon by the Council.

B. Procedure:

1. Appeals must be requested within thirty (30) days of an employee's action or the Commission's order or decision.

2. Appeals must be in writing, filed with the Clerk, specify the action, order, or decision appealed from, and state the relief sought.

3. Upon receipt of an appeal, the Clerk shall:

i. Set the matter to be heard by the Council;

ii. Give public notice of the hearing; and

iii. Notify the appellant and the employee whose action is the subject of the appeal or the Commission when a final order or decision of the Commission is the subject of the appeal of the time and place of the hearing before the Council.

4. Stay of Proceedings Pending Appeal: A timely filing of an appeal stays all proceedings in furtherance of the action, order, or decision appealed from, unless the Council determines, after the filing of the appeal and based on the facts stated in the appeal request, a stay would, in its opinion, cause imminent peril to life or property.

5. The appellant and any affected party may appear at the hearing in person and may be represented by an agent or legal counsel.

5-10-5: ACTION BY COUNCIL

A. The Council, after conducting a public hearing and taking any applicable public testimony, shall review the appeal request, and exhibits received at the hearing and the applicable written administrative decision or recommendation by the employee or Commission whose action is the subject of the appeal. After the review, the Council shall decide the appeal.

B. The Council's decision shall be in writing and:

1. Shall include its specific findings of fact, based on the evidence presented to it, that support its decision on the appeal;

2. Shall specify the ordinance(s) relied on in reaching its decision on the appeal;

3. Shall, based on its findings and the ordinance(s) relied on, grant or deny or in part grant and in part deny the appeal;

4. May include the actions, if any, that the appellant could take to obtain the relief sought by the appeal; and

5. Shall be issued within sixty (60) days of the closing of its hearing on the matter; and

6. Under no circumstances may the Council, when deciding an appeal, allow a use not permissible under the terms of this Title in the zoning district involved or any use expressly or by implication prohibited by the terms of this Title in said zoning district.

C. The Council's decision shall be the final decision of the City.

~~5-10-4: ACTION INVOLVING REZONES, SPECIAL USES AND AMENDMENTS:~~

~~Action by affected persons:~~

~~A. An affected person shall mean one having an interest in real property which may be adversely affected by the issuance or denial of a permit.~~

~~B. Any affected person may, at any time prior to final action on rezone, special use, or variance, if no hearing has been held on the application, petition the Commission or Council, in writing, to hold a hearing as required in Section 5-7-2 of this Title; provided, however, that if twenty (20) affected persons petition for a hearing, the hearing shall be held.~~

~~C. After a hearing, the Commission or Council may:~~

~~1. Grant or deny a permit; or~~

~~2. Delay such a decision for a definite period of time for further study of hearing.~~

~~D. An affected person aggrieved by a decision may, within sixty (60) days after all remedies have been exhausted under local ordinances, seek judicial review under the procedures provided by sections 67-5215 through (g) and 67-5216 Idaho Code. (Ord. 105, 1-7-89)~~

~~5-10-6: SCHEDULE OF FEES, CHARGES AND EXPENSES:~~

~~The Council shall establish, by resolution, a schedule of fees, charges and expenses and a collection procedure for amendments, appeals, variances, special use permits, plan approvals and other matters pertaining to the administration and enforcement of this Title requiring investigations, inspections, legal advertising, postage and other expenses. The schedule of fees shall be posted in the office of the Clerk and may be altered or amended only by the Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Ord. 105, 1-7-89)~~

AFFIDAVIT OF PUBLICATION

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

Madison Mjence 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 Friday issue of said newspaper for 1 consecutive Days commencing on the 11 day of May 20 12, and ending on the 11 day of May 20 12, and such publication was made as often during said period as said paper 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 Madison Mjence. On this 11 day of May in the year of 2012, before me, a Notary Public, personally appeared Madison Mjence 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. 218

In accordance with Idaho Code §50-901A, the following is a summary of Ordinance 218 of the City of Dalton Gardens, Idaho:

1. An ordinance of Dalton Gardens, Idaho, a political subdivision of the State of Idaho, amending Title 5, Chapter 10 of the Dalton Gardens Municipal Code to add definitions and standards for site plans and amending the section for the administration and processing of public hearings and appeals of the Dalton Gardens Municipal Code unless otherwise specified and providing for severability and effective date.
 2. The ordinance provides for a method of filing applications and obtaining building and other permits and the requirements for site plans and other pertinent information. The ordinance also provides for violations and penalties.
 3. This Ordinance was passed on May 3, 2012.
 4. The Ordinance takes effect upon publication of this Summary in the Coeur d'Alene Press.
 5. The full text of Ordinance 218 is available at the Dalton Gardens City Hall.
- DATED this 3rd day of May, 2012.

/s/
Daniel Franklin, Mayor

/s/
Marcia Wingfield, Clerk
Legal 5345
May 11, 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

May 3, 2012

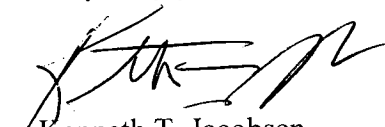
City of Dalton Gardens
Attn: Marcia Wingfield, City Clerk
6360 N.4th Street
Dalton Gardens, ID 83815

RE: Ordinance 218

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Ordinance No. 218, SITE PLANS, ADMINISTRATION AND APPEALS, 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

5-10-7: VIOLATIONS AND PENALTIES:

A. Violations and Penalties: It shall be unlawful to construct, reconstruct, enlarge and maintain or use any building or to use any land in violation of any regulation or any provision of this Title or the terms of any permit therefore. Any such violation shall be deemed a misdemeanor and shall subject the offender to penalties in accordance with Section 1-4-1 of this City Code. Each and every day during such illegal erection, construction, enlargement of, maintenance or use continues may be deemed a separate offense. (Ord. 105, 1-7-89; 1991 Code)

B. Action by Council or Property Owner: In case any building is, or is proposed to be, constructed, erected, reconstructed, located, enlarged, changed or maintained or used, or any land is proposed to be used in violation of this Title or any amendment hereto, the City Council or any adjacent property owner who could be specially damaged by any such violation, in addition to any other remedy provided by law or in this Title, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use. (~~Ord. 105, 1-7-89~~)

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.

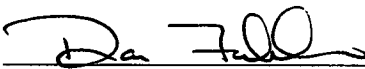
SECTION 3: CONFLICTING ORDINANCE PROVISIONS

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

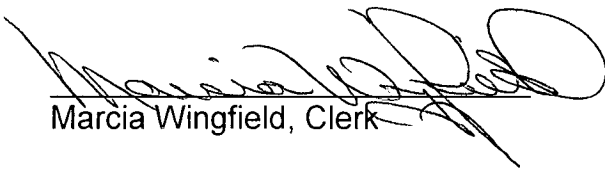
SECTION 4: EFFECTIVE DATE

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.

Attest:



Dan Franklin, Mayor



Marcia Wingfield, Clerk