

CITY OF DALTON GARDENS, IDAHO

ORDINANCE NO 248

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 4 BUILDING CODES, ADDING STANDARDS FOR ADMINISTRATION OF THE DALTON GARDENS MUNICIPAL CODE IN DALTON GARDENS IDAHO, PROVIDING SEVERABILITY, REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

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

TITLE 4 CHAPTER 1: BUILDING CODES

4-1-1: APPOINTMENT OF CITY BUILDING OFFICIAL:

4-1-2: CODES ADOPTED:

4-1-3: AMENDMENTS TO INTERNATIONAL CODES (REP. BY ORD. 214, 2-15-2011):

4-1-4: ISSUANCE OF PERMITS; DUTIES OF PERMIT APPLICANT:

4-1-5: CERTIFICATION OF OCCUPANCY:

4-1-6: FEES FOR BUILDING PERMITS AND ASSOCIATED SERVICES:

4-1-7: STRUCTURE MOVING REQUIREMENTS:

4-1-8: MANUFACTURED HOME SETTING PERMITS; REQUIREMENTS:

4-1-9: MANUFACTURED HOME SETTING PERMITS; ADDITIONAL REQUIREMENTS:

4-1-10: APPEALS FROM ADMINISTRATIVE RULINGS:

4-1-11: REMEDIES AND PENALTIES:

4-1-1: APPOINTMENT OF CITY BUILDING OFFICIAL:

There is hereby appointed a Dalton Gardens building official empowered to enforce the provisions of this chapter, the building, fire, and safety codes adopted pursuant to this chapter, and such other ordinances, as the city council shall designate. The building official may be either appointed or under consultant contract.

The building official shall have the power and responsibility to render interpretations of the adopted codes and enforce rules and supplemental regulations in order to clarify the application of their provisions. Any reference in the standardized codes to mayor, council, or governing body shall be deemed to refer to the city council of Dalton Gardens.

One copy of each standardized code adopted herein shall be duly certified and filed for use by the public at city hall. (Ord. 162(1), 2-6-2003)

#### 4-1-2: CODES ADOPTED:

The following nationally recognized codes are adopted as the official building codes of the city of Dalton Gardens:

A. Building Code: The international building code, 2009 edition, prepared by the International Code Council, Inc., as adopted by the state of Idaho or the Idaho building code board, together with any amendments or revisions to the international building code made by the Idaho building code board through the negotiated rulemaking process, is adopted.

B. Residential Code: The international residential code, 2009 edition, prepared by the International Code Council, Inc., as adopted by the state of Idaho or the Idaho building code board, together with any amendments or revisions to the international building code made by the Idaho building code board through the negotiated rulemaking process, is adopted.

C. Energy Conservation Code: The international energy conservation code, 2009 edition, prepared by the International Code Council, Inc., together with any amendments or revisions to the international building code made by the Idaho building code board through the negotiated rulemaking process, is adopted. (Ord. 214, 2-15-2011)

D. Mechanical Code: The international mechanical code as published by the International Code Council.

E. NFPA Standards For Manufactured Homes: National Fire Protection Association codes number 501A and 1194 and the accepted engineering practice standards contained therein for compliance by the manufactured home recreational vehicle industry.

F. Fire Code: The international fire code as published by the International Code Council.

G. Fuel Gas Code: The international fuel gas code, as published by the International Code Council.

H. Life Safety Code: Life safety NFPA 101, as published by the National Fire Protection Association.

The adopted versions of the foregoing codes shall be deemed superseded by successive versions of such codes as they are adopted or approved by the state of Idaho effective on the date any such codes are made effective. (Ord. 215, 2-15-2011)

#### 4-1-3: AMENDMENTS TO INTERNATIONAL CODES:

(Rep. by Ord. 214, 2-15-2011)

#### 4-1-4: ISSUANCE OF PERMITS; DUTIES OF PERMIT APPLICANT:

Burden Of Proof: The burden of demonstrating compliance with this title rests with the applicant. An applicant for a building permit or other construction permit as governed by this chapter shall be responsible, in presenting his/her application for a permit, for showing that the activity to be carried out pursuant to the requested permit meets Title 5 Chapter 10 of the Municipal Code and the following standards:

A. Complies with the Dalton Gardens municipal code, northwest energy code, fuel gas installer's licensing requirements ordinance, and all other applicable ordinances of the city.

B. Complies with the international building and residential code application requirements.

C. Has received final approval on a variance, conditional use permit, temporary hardship, final subdivision plat, or zone change if one is required.

D. Has received necessary water, sewer, and health permits from the Dalton Water Association, Panhandle health district or other sewer districts.

E. Has received an access, approach, or encroachment approval from the city or the Lakes highway district (when applicable), and the fire district (when applicable), providing service to the site upon which the permit has been requested.

F. For mobile manufactured home setting permits, has received approval from Kootenai County assessor's appraisal division, verifying that appropriate taxes have been paid.

G. For pole barns, log homes, steel structures or other alternate building systems not tested and approved by the National Evaluation Service, Inc., or the International Conference of Building Officials Evaluation Service, Inc., or the International Code Council Evaluation Service, Inc., have plans approved and stamped by a design professional licensed in the state of Idaho.

H. Commercial, industrial, educational, assembly buildings and their site plans shall be designed by a licensed Idaho design professional. The site plan for any of these buildings include, but are not limited to, distances to the property line and/or other buildings, easements, provisions of site disturbance requirements, driveways, approaches and parking. (Ord. 162(1), 2-6-2003)

#### 4-1-5: CERTIFICATION OF OCCUPANCY:

A. Prior to issuance of a certificate of occupancy the applicant shall provide final approval signatures from other agencies also performing inspection services on that particular project including, but not limited to, the fire district, the highway district, the Panhandle health district, or other sewer districts, the state electrical inspector, the state plumbing inspector, the state building inspector, the Idaho department of health and welfare, the department of lands, and the U.S. army corps of engineers. All approval signatures from the above mentioned agencies are at the discretion of the building official with the city council approval.

B. Any permit applicant whose requested building permit or certificate of occupancy is denied by the building official for reasons related to the refusal of an official of a jurisdiction other than Dalton Gardens to approve said permit or certificate shall be entitled to appeal said denial to the Dalton Gardens city council. Any person having record title to, or a legal interest in, the building or premises subject to the building official's notice and order as provided in section 4-1-10 of this chapter may appeal the building official's notice and order to the Dalton Gardens city council.

1. Such appeal shall be taken solely upon the record and upon such testimony and evidence as might be introduced before the council by the parties and any agency whose approval has been withheld. Notice of such review shall be provided at least five (5) days prior to the hearing of the parties and agency, respectively, by first class mail.

2. If the council is able to develop an accord between the parties and the withholding agency, said accord shall be reduced to writing, signed by the parties, and the appeal shall go no further.

3. The city council may decide whether to allow the permit or certificate to be issued despite objection by another agency. A decision to issue a permit or certificate may be made if the council finds from the record developed in the case that the applicant has complied with all ordinances of Dalton Gardens or any state laws for which Dalton Gardens has enforcement responsibility. The requested permit or certificate shall be withheld if the record provides evidence that a city ordinance or applicable state law is violated if the permit or certificate were issued. The city council may decide whether or not the building official properly issued a notice and order pursuant to section 4-1-10 of this chapter. If the city council finds, based on the record that the applicant has satisfied all the provisions of this chapter, then the city council shall direct the building official to withdraw the notice and order previously issued.

The city council shall render a decision in writing, setting the factual and legal basis for its determination. Notice of the decision shall be promptly provided to the parties and to the agency contesting the permit or certificate. Any approved permit or certificate may be issued ten (10) days after the date of the final decision by the council. In the event of council approval, further responsibility for enforcement shall rest solely with the contesting agency. (Ord. 162(1), 2-6-2003)

#### 4-1-6: FEES FOR BUILDING PERMITS AND ASSOCIATED SERVICES:

Fees for building permits and related building department services shall be set by resolution by the city council.

Building valuation obtained from the building valuation data, published by the International Conference of Building Officials (ICBO) "Building Standards" magazine each year, shall be used to determine valuation of construction. Such valuation shall become effective on January 1, of the calendar year following the ICBO publication. Discontinuance of said publication will result in the use of the last valuation data and computations of local and national construction statistics to determine fair market value of fees to be charged. (Ord. 162(1), 2-6-2003)

#### 4-1-7: STRUCTURE MOVING REQUIREMENTS:

A. Any person desiring to move an existing structure, excluding a manufactured home, to a location within the incorporated areas of Dalton Gardens shall obtain the following inspections and permits prior to initiating moving activities:

1. Premove Inspection: The person or firm who will be the owner of the structure when it is placed on its destination site, hereinafter the destination owner, shall arrange for a code compliance inspection with the jurisdiction having code enforcement responsibilities at the premove location of the structure, prior to initiating the move. The results of said inspection shall be supplied by the owner to the Dalton Gardens building official. Upon receipt of the inspection report, the Dalton Gardens building official shall inform the person or the firm requesting the premove inspection what corrections will be necessary before occupancy of the relocated structure will be allowed. Said requirements may be referred to by an itemized list or by reference to the inspection report submitted by the premove jurisdiction.

2. Moving Permit: Permission to move the structure in question into or within Dalton Gardens may be granted by the building official if the following conditions have been met satisfactorily:

a. An acknowledgment has been received from the destination owner that code compliance requirements will be met prior to occupancy of the relocated structure.

b. Copies of permits to use public rights of way for movement of the structures have been obtained from all public agencies having responsibility for the rights of way to be used in the move. Any bonds or surety requirements associated with the use of the public right of way for movement of the structure shall be obtained and submitted to the transportation agency(ies) responsible for regulation of pertinent rights of way prior to issuance of the permits required herein. Dalton Gardens shall not be responsible for security of the move in any manner.

c. A building permit for all improvements to be installed upon the destination site shall be obtained prior to initiating the move. Adequate plans and accessory permits from special purpose districts serving the destination site shall be provided as same would be required for completely new construction on the destination site.

d. Nothing in the process of permit review for structures to be moved shall excuse the destination owner from his responsibility to repair any damage caused by movement of the structure, prior to occupancy.

e. Notification of moving date and route shall be made to the fire protection district(s) and all other emergency services dispatch centers before and during the move. (Ord. 162(1), 2-6-2003)

#### 4-1-8: MANUFACTURED HOME SETTING PERMITS; REQUIREMENTS:

Although actual construction standards for manufactured homes are enforced by the Idaho department of building and safety, a setting permit shall be required prior to placement of a manufactured home within the incorporated areas of Dalton Gardens. Placement of a manufactured home shall mean the installation of said structure on a foundation or similar support system and/or its connection to water or sewer facilities, electricity, gas, telephone, cable television, or similar services, or initiation of its use as a residence or for a residentially related purpose. To obtain a setting permit or manufactured home foundation permit, the applicant shall supply information identical with that required from one seeking to build a dwelling on site, excluding the required plans for the structure itself. (Ord. 162(1), 2-6-2003)

#### 4-1-9: MANUFACTURED HOME SETTING PERMITS; ADDITIONAL REQUIREMENTS:

When the manufacturer requires footings to be installed according to their direction, such information shall be provided to the building department and a footing inspection prior to the placement of concrete will be required.

Manufactured homes and mobile homes that are to be converted to real property shall comply with section 44-2201(2) of the Idaho state code. When the manufacturer's direction for footings do not meet the minimum requirements of the Idaho state code 44-2201(2) for converting manufactured homes and mobile homes to real property, then Idaho state code 44-2201(2) will have precedence.

All other footings for manufactured homes and mobile homes that are not required to be set according to manufacturer's instructions, or that are not to be converted to real property, will comply with the National Fire Protection Association (NFPA) 501.A. (Ord. 174, 4-7-2005)

#### 4-1-10: APPEALS FROM ADMINISTRATIVE RULINGS:

Appeals from administrative orders made by the building official may be appealed in accordance with the procedures contained in the standardized codes adopted by this chapter and with such additional procedures as may be adopted by order of the city council. (Ord. 162(1), 2-6-2003)

#### 4-1-11: REMEDIES AND PENALTIES:

The primary purpose of this chapter shall be to obtain compliance with the standardized codes adopted to protect the health, safety, and welfare of the public. To that end, the building official may seek to use the following remedies as may be appropriate to see that these chapter provisions are enforced:

A. Any person who violates any provisions of this chapter, or of the standardized codes adopted pursuant to this chapter is guilty of a misdemeanor.

B. A separate violation is deemed to have occurred with respect to each building or structure not in compliance with the codes adopted herein. Each day such violation occurs or continues will constitute a separate offense.

C. The building official, with the consent of the Dalton Gardens city council, may seek equitable relief from a court of competent jurisdiction to restrain conduct in violation of this chapter or to compel performance of duties established by this chapter. Said equitable remedies may be sought in addition to criminal penalties.

D. The assessment of investigation fees will be one hundred percent (100%) of the actual permit fee and will also apply to mobile manufactured home setting permits.

E. Whenever the building official has determined that an applicant has abandoned the project for which a permit was obtained, or that the applicant has failed to obtain a certificate of occupancy as required by this chapter, or if the building official determines that an applicant has failed to comply, or refuses to comply, with provisions of this chapter, then the building official may issue a notice and order directed to the record owner of the property stating the nature of the noncompliance with this chapter. If the record owner of the property has not provided proof of compliance with this chapter within the time limits established by this chapter, then the building official may file in the office of the county recorder a certificate describing the property and certifying that the property is not in compliance with this chapter and that the owner has been so notified. The building official shall comply with the following procedures before recording a notice and order in the office of the county recorder.

F. The building official may elect to use any, or all, or any combination of, the remedies and penalties set forth in this chapter.

1. Notice And Order: The building official may issue a notice and order to the record owner of the building. The notice and order shall contain the following information:

a. The street address and a legal description sufficient for identification of the premises upon which the building is located.

b. A statement of the building official containing a brief and concise description of the conditions found to render the building or premises in violation of this chapter.

c. A statement of the action required to be taken, as determined by the building official, in order to bring the property into compliance with this chapter.

d. A statement by the building official establishing a reasonable amount of time, not to exceed sixty (60) days from the date of the notice and order, to allow the record owner of the property to take such steps as are necessary in order to bring the property into compliance with this chapter.

e. The notice shall advise that any person(s) having record title or legal interest in the building may appeal from the issuance of the notice and order, in accordance with the procedural provisions set forth in section 4-1-10 of this chapter. The notice shall also indicate that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter, and that an appeal of the building official's notice and order must be in writing and must be received by the building official within twenty eight (28) days of the date the notice and order was served.

2. Service Of Notice And Order: The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner of the property and posted on the property. The failure of the building official to serve any person required to be served shall not invalidate any proceedings under this section as to any other person duly served or relieve any person from any duty or obligation imposed on him by the provision of this chapter.

3. Method Of Service: Service of the notice and order shall be made upon all persons either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each person entitled to notice at his address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of the person so appears or is known to the building official, then a copy of the notice and order shall be mailed, addressed to the person, at the address of the building involved in the proceeding. Service by certified mail in the manner provided by this chapter shall be effective on the date of mailing.

4. Proof Of Service: Proof of service of the notice and order shall be certified at the time of service by a written affidavit, under penalty of perjury, by the person(s) performing service and indicating the time, date and manner in which service was made. This affidavit, together with a receipt card returned in acknowledgment of receipt by certified mail, shall be retained by the building official.

5. Recordation Of Notice And Order: If the building official's notice and order is not complied with within the time specified, and no appeal has been properly and timely filed, the building official may file in the office of the county recorder, a certificate describing the property and certifying that the building is not in compliance with this chapter and that the record owner has been notified of the noncompliance. The certificate shall also contain a brief and concise description of the nature of the noncompliance and shall include a statement of the actions required, if any, which must be taken in order to bring the building into compliance with this chapter.

6. Release Of Notice And Order: Whenever the building official has determined that the conditions which caused the building to fail to comply with this chapter have been corrected, the building official shall file a new certificate with the office of the county recorder certifying that the previously recorded notice and order shall be released and



that all required corrections have been made so that the property is in compliance with this chapter. (Ord. 162(1), 2-6-2003)

SECTION 2. SEVERABILITY. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. If any provision of this chapter, or its application to any person or circumstances, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or the application of the provisions to other persons or circumstances.

Nothing in this chapter shall be construed as preventing the adoption of more restrictive provisions set forth in other sections of the Dalton Gardens Municipal Code. The more restrictive provisions of the code shall be enforced.

SECTION 3. PUBLICATION

Upon passage and approval and publication in one (1) issue of the Coeur d'Alene Press, the official newspaper of the City of Dalton Gardens, Idaho, this Ordinance shall be in full force and effect.

PASSED under suspension of the rules at which a roll call vote was taken at regular meeting of the city council of the City of Dalton Gardens, Kootenai County, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
STEVE ROBERGE, Mayor

ATTEST:

\_\_\_\_\_  
VALERIE ANDERSON, Clerk

NOTICE OF PUBLIC HEARING  
MUNICIPAL CODE AMENDMENT  
TITLE 4 CHAPTER 1 SECTION 4  
JULY 7, 2016: 6 P.M.  
DALTON GARDENS CITY COUNCIL

The Dalton Gardens City Council will conduct a review of the Dalton Gardens Municipal Code and take public testimony to consider the following amendments to Title 4 Building Codes:

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 4 CHAPTER 1 SECTION 4 BUILDING CODES IN THE DALTON GARDENS MUNICIPAL CODE: TO ADD LANGUAGE TO SECTION 4 ENTITLED ISSUANCE OF PERMITS DUTIES OF PERMIT APPLICANT -, PROVIDING SEVERABILITY, REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

The public hearing will be held at 6360 4th Street, Dalton Gardens, Idaho at 6:00 p.m. on Thursday July 7 2016. All interested persons are invited to appear and show cause, if any, why such item should or should not be adopted. A copy of the draft amendment is available online for review and printing at [www.daltongardens.govoffice.com](http://www.daltongardens.govoffice.com) under the "Draft Ordinances" link or can be obtained at City Hall during regular office hours (9:00 a.m. to 5:00 p.m., Monday through Thursday, Friday 9:00 a.m. to 4:00 p.m.). Questions regarding this draft should be directed to city planner, Cheri Howell at 208-640-9530 or emailed to [daltongardenslandplanner@gmail.com](mailto:daltongardenslandplanner@gmail.com). Written comments on the draft may be taken to City Hall up to the day of the hearing. 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:

Valerie Anderson

City Clerk

Publish: CDA Press

Date: Tuesday June 21 2016

# AFFIDAVIT OF PUBLICATION

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

Holly Fredenicks 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.

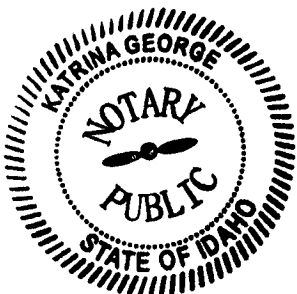
3. The legal notice

of which the annexed is a printed copy, was published in the regular Thurs issue of said newspaper for 1 consecutive week commencing on the 14 day of July, 2016, and ending on the 14 day of July, 2016, 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 Holly Fredenicks. On this 14 day of July in the year of 2016, before me, a Notary Public, personally appeared Holly Fredenicks, 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.



MY COMMISSION EXPIRES 8/29/17

## SUMMARY OF CITY OF DALTON GARDENS, IDAHO ORDINANCE NO. 248

In accordance with Idaho Code 50-901A, the following is a Summary of Ordinance 248 of the City of Dalton Gardens, Idaho:

AN ORDINANCE OF THE CITY OF DALTON GARDENS, IDAHO A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 4 BUILDING CODES, ADDING STANDARDS FOR ADMINISTRATIVE OF THE DALTON GARDENS MUNICIPAL CODE IN DALTON GARDENS, IDAHO, INCLUDING BURDEN OF PROOF REQUIREMENTS, PROVIDING SEVERABILITY, REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

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

The full text of Ordinance 248 is available at the Dalton Gardens City Hall.

Dated this 8th day of July 2016.  
Steve Roberge, Mayor  
Valerie S. Anderson, Clerk

LEGAL 5905  
JULY 14, 2016