

CITY OF DALTON GARDENS, IDAHO

ORDINANCE NO. 250

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 5 CHAPTER 10 ADDING DEFINITIONS AND 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 5 CHAPTER 10 ADMINISTRATION AND ENFORCEMENT

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5-10-1: ENFORCEMENT OFFICIALS:

It shall be the duty of the city to see that this title is enforced through proper legal channels. (Ord. 218, 5-3-2012)

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.
- B. Application Forms: Applications for permits shall be submitted on forms provided by the city, and all applications shall include a site plan (see section D of this Chapter for the contents of a site plan). All information, including the site plan, and other maps, plans, drawings, tabulations and calculations, and all agency and government signatures called for on those forms shall be required for a

complete application, and no incomplete application shall be accepted. The administrator may require submission of multiple copies of application forms and supporting materials.

C. Burden Of Proof: The burden of demonstrating compliance of all permits with this title rests with the applicant and property owner.

D. Site Plan:

1. All applications for building permits shall be accompanied by a site plan.
2. The following types of permits require a site plan that is delineated in subsection BD3 of this section. 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 chapter 3 of this title.
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 one inch equals ten feet (1" = 10') to a maximum scale of one inch equals fifty feet (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 number).
 - 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. Staking of property lines, setbacks from property lines to structures and locations of driveways may be requested by the City.

5. 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 and the property owner 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.

56. A record of all such applications, site plans and supplemental information shall be kept in the office of the city clerk. (Ord. 218, 5-3-2012)

5-10-3: PUBLIC HEARINGS:

Whenever a hearing is required by this title for a special use permit, variance, subdivision, 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. 218, 5-3-2012)

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. (Ord. 218, 5-3-2012)

5-10-3-2: HEARING NOTICES:

A. Whenever notice is required under this chapter 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 from a title company the correct names and addresses and two sets of mailing labels of all adjoining property owners which are defined in section 5-8-3 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. (Ord. 218, 5-3-2012)

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. (Ord. 218, 5-3-2012)

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. Request Of Appeals: Appeals must be requested within thirty (30) days of an employee's action or the commission's order or decision unless otherwise specified in another title/section of the Municipal Code.
2. Filing Of Appeals: 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 Appeal: Upon receipt of an appeal, the clerk shall:
 - a. Set the matter to be heard by the council;
 - b. Give public notice of the hearing; and
 - c. 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. Appearance At Hearing: The appellant and any affected party may appear at the hearing in person and may be represented by an agent or legal counsel. (Ord. 218, 5-3-2012)

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 unless otherwise specified in another Title/Section of the Municipal Code; 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. (Ord. 218, 5-3-2012)

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. 218, 5-3-2012)

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 therefor. Any such violation shall be deemed an infraction or a misdemeanor and shall subject the offender to penalties in accordance with section 1-4-1 of this code. Each and every day during such illegal erection, construction, and enlargement of, maintenance or use continues may be deemed a separate offense. The city may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this Title. No applications for any permits or licenses shall be reviewed or approved by the City if there is a existing, valid violation of the Dalton Gardens Municipal Code, unless the permit or license is to resolve the existing violation.

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. 218, 5-3-2012)

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: _____

AFFIDAVIT OF PUBLICATION

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

Holly Fredericks 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 11 day of Aug 2016, and
ending on the 11 day of Aug 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 Fredericks
On this 11 day of Aug in the year of 2016, before me,
a Notary Public, personally appeared Holly Fredericks,
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. 250

In accordance with Idaho Code 50-901A, the following is a Summary of Ordinance 250 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 5, Chapter 10 adding definitions and standards for administration of the Dalton Gardens municipal code in Dalton Gardens, Idaho providing severability, repealing conflicting ordinances and providing an effective date.

The Ordinance takes effect upon publication of this Summary in the Coeur d'Alene Press. The full text Ordinance 250 is available at the Dalton Gardens City Hall, dated this 4th day of August, 2016.
Steve Roberge, Mayor
Attest: Valerie S. Anderson,
Clerk

LEGAL 6090
AUGUST 11, 2016



MY COMMISSION EXPIRES 8/29/17