

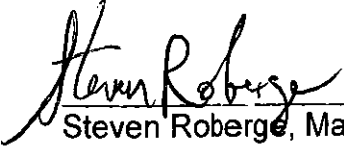
SUMMARY OF
CITY OF DALTON GARDENS, IDAHO
ORDINANCE NO 252

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING DEFINITIONS, STANDARDS AND PROCEDURES IN TITLE 5 CHAPTER 1, TITLE 5 CHAPTER 5, AND TITLE 5 CHAPTER 8 OF THE DALTON GARDENS MUNICIPAL CODE PROVIDING SEVERABILITY, REPEALING CONFLICTING PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

In accordance with Idaho Code §50-901A, the following is a Summary of Ordinance 252 of the City of Dalton Gardens, Idaho:


1. Ordinance 252 amends or adds certain definitions for Accessory Living Units, Dwellings, Lot Coverage, Lot Size, manufactured homes, mobile homes, parcels, portable storage containers, pre-fab sheds, recreational vehicles, single family dwellings and trailer houses.
2. The Ordinance redefines or changes lot size, street frontage and lot coverage provisions.
3. The Ordinance further amends provisions for allowed uses, special uses, lot uses, and lot coverage.
4. The Ordinance takes effect upon publication of this Summary in the Coeur d'Alene Press.
5. The full text of Ordinance 252 is available at the Dalton Gardens City Hall.

DATED this 6th day of April, 2018.



Steven Roberge, Mayor

ATTEST:



Valerie Anderson, Clerk

CITY OF DALTON GARDENS, IDAHO

ORDINANCE NO 252

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING DEFINITIONS, STANDARDS AND PROCEDURES IN TITLE 5 CHAPTER 1, TITLE 5 CHAPTER 5, AND TITLE 5 CHAPTER 8 OF THE DALTON GARDENS MUNICIPAL CODE, PROVIDING SEVERABILITY, REPEALING CONFLICTING PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1 AMENDMENTS TO TITLE 5 CHAPTER 1.

Title 5 Chapter 1 shall be amended as follows:

**Chapter 1
GENERAL ZONING PROVISIONS**

5-1-1: TITLE:

5-1-2: AUTHORITY:

5-1-3: INTERPRETATION AND APPLICATION:

5-1-4: DEFINITIONS:

5-1-1: TITLE:

This title and any amendments and additions thereto shall be hereafter known as the *ZONING ORDINANCE* of the city.

5-1-2: AUTHORITY:

This chapter is adopted pursuant to authority granted by title 67, chapter 65 of the Idaho Code and article 12, section 2 of the Idaho constitution.

5-1-3: INTERPRETATION AND APPLICATION:

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this chapter conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive and that imposing the higher standards will govern.

5-1-4: DEFINITIONS:

For the purpose of this chapter, certain words and terms are defined as follows:

ACCESSORY LIVING UNIT: A building or portion(s) of a building, located on the same lot, but separate from the principal dwelling with habitable space and any combination of sink, toilet, kitchen, or bathing facility that could enable the residential occupation of the structure or portion of the structure. A garage, shop or storage building with a toilet and a sink shall not be considered an accessory living unit.

ACCESSORY USE OR BUILDING: A subordinate use or building customarily incident to and located upon the same lot occupied by the main use or building.

BUILDING: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

CLERK: The city clerk of the city of Dalton Gardens.

COMMISSION: The planning and zoning commission of the city of Dalton Gardens.

CORNER LOT: A zoning lot which adjoins the point of intersection of two (2) or more street lines and which the interior angle formed is one hundred thirty five degrees (135°) or less.

DWELLING: A structure, building, or shelter, serving as a place where one or more persons live. Also known as a house, residence, abode, domicile, habitation, lodging, or home.

FAMILY: Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises exclusively as one household.

FENCE: A structural device forming a vertical physical barrier.

FIELD: A piece of land cleared of trees and usually enclosed.

FRONT LOT PROPERTY LINE: For an interior lot that is only accessed by one street, a front lot line is the line that is directly adjacent to the street. On a corner lot, the applicant may select either street line as a front lot line.

FRONT YARD: The required open space between the front property line and the nearest part of any building on the lot, save as elsewhere in this chapter accepted.

GOVERNING BODY: The city council of the city of Dalton Gardens.

HEIGHT: A measurement of the distance from the bottom to the top of something which is upright. Structure height is measured from natural grade to the highest point of a structure.

INTERIOR LOT: A lot that is not on the corner and is between other lots. The interior lot is not located adjacent to two (2) streets.

KENNEL: A place where, or use of a lot by a family for maintaining, breeding, boarding, keeping, training or suffering the occupancy by more than three (3) dogs. However, the litter of a female dog may be kept with the dog, and the litter, together with the mother, shall count as one dog until the litter reaches six (6) months of age.

LOT: The parcel of land on which a principal building and its accessory buildings are placed or are to be placed, together with the required open spaces, or a "lot" designated as such on an officially recorded plat.

Any subdivision of land by metes and bounds or aliquot parts description prior to the effective date hereof and held under one ownership separate and distinct from the adjoining or abutting land shall be considered a lot as shown by the last conveyance of record.

For the purpose of determining the location of the required yards, a lot shall be considered to be as shown on the official recorded plat of the property, regardless of any metes and bounds subdivision of said property subsequent to the effective date hereof.

When a tract of land consisting of more than one platted lot held under one ownership is to be developed as one unit, all the parcels or lots shall be considered as one lot for the purposes of this chapter.

LOT COVERAGE: The portion of a lot, stated in terms of percentage that is covered by all buildings, structures or paved surfaces. This shall include all buildings, porches, breezeways, patio roofs and the like, whether open box type or lathe roofs, or fully roofed, but shall not be deemed to include fences, or walls, or swimming pools. It shall also include all surfaces with concrete or asphalt paving, such as patios, driveways, and sidewalks when surfaced with pavement. Gravel surfaces, bricks, pavers, and similar "hard" surfaces shall not be included in lot coverage calculations.

MANUFACTURED HOME: A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. section 5401 et seq.

MOBILE HOME: A factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

OBSTRUCTED VIEW: For purposes of this chapter, to block or hinder clear sight; to impede or interfere with a clear vision of a yard, field, street, driveway or corner where traffic may enter. Fences of obstructed views may include, but are not limited to, fences over four feet (4') in height, any type of privacy fencing, solid vinyl fencing, concrete, cinder block, wood, wrought iron or chain-link with slats.

PARCEL: A quantity of land identified for taxation purposes. It is common for a lot and a parcel to share the same space and have common boundaries, but this is not always the case. For instance, it is possible for a parcel to have more than one lot, or portions of lots.

PORTABLE STORAGE CONTAINERS: Containers not used for human occupancy, and transported to a designated location for storage purposes (typically known as PODS, MODS, shipping container). Not a pre-fabricated shed.

PRE-FABRICATED SHED: Typically a simple, small, single-storied roofed structure built off-site and delivered to the site in one unit. Typically used for storage.

REAR LOT LINE: The back lot line or back line parallel to the front line.

REAR YARD: The required open space between a building and the rear line of the lot.

RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. A trailer house is considered a recreational vehicle.

SIDE LOT LINE: Any lot line which is not a front lot line or a rear lot line.

SIDE YARD: The required open space on a lot between a building and the side line of the lot and extending from the front yard to the rear yard. The required width of the side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building. The eave shall be the edge of the building for purposes hereof.

SINGLE-FAMILY DWELLING: A building or manufactured home arranged or designed to be occupied by not more than one family. In addition, the classification "single family dwelling" shall include any group residence in which eight (8) or fewer unrelated persons with disabilities or elderly persons reside and who are supervised at the group residence in connection with their disability or age related infirmity. Resident staff, if employed, need not be related to each other or to any of the persons with disabilities or

elderly persons residing in the group residence. No more than two (2) of such staff shall reside in the dwelling at any one time.

SPECIAL USE: A special use permitted within a district other than a principally permitted use, requiring a permit and approval of the commission and governing body.

SPOKANE VALLEY-RATHDRUM PRAIRIE AQUIFER BOUNDARY: A boundary of the aquifer as delineated and determined by the environmental protection agency and administered by the department of environmental quality and the Panhandle health district. The map is available at the city hall.

STORY: The habitable space between each floor level of a building.

STREET: A public way established by or maintained under public authority; a private way open for public use and a private way plotted or laid out for ultimate public use, whether or not constructed.

TRAILER HOUSES: A vehicle without means of self-propulsion, licensable as a conveyance on a public street or highway, constructed to permit temporary or intermittent occupancy as a dwelling or sleeping place for one or more persons. Trailer houses are considered Recreational Vehicles for purposes of this Code.

UNOBSTRUCTED VIEW: For purposes of this chapter, a clear unhindered view that does not impede the sight of humans, animals, yards, fields, streets, driveways, or street intersections where humans or vehicles access. Fences that are unobstructed views may include, but are not limited to, barbwire, picket, post and rail, split rail, wattle, chain-link, woven wire, or solid fences less than four feet (4') in height.

SECTION 2 AMENDMENTS TO TITLE 5 CHAPTER 5.

Title 5 Chapter 5 shall be amended as follows:

TITLE 5 CHAPTER 5 RESIDENTIAL DISTRICT

5-5-1: ALLOWED USES:

5-5-2: SPECIAL USES:

5-5-3: MINIMUM LOT SIZE AND STREET FRONTAGE:

5-5-4: YARDS AND LOT COVERAGE:

5-5-5: MANUFACTURED HOMES:

5-5-6: HEIGHT OF STRUCTURES:

5-5-7: FENCING:

5-5-8: PUBLIC PARKS:

5-5-1: ALLOWED USES:

In the residential district, no building or land located therein shall be used, nor any

structure hereafter erected or altered, except for the following purposes:

- A. Home gardens and gardening of vacant land.
- B. Park, public. A public park is a tract of land owned by the city and maintained as a place for passive or active recreation programs to meet the recreational needs of the general public, including playgrounds and horse arenas (see section 5-5-8 of this chapter).
- C. Seasonal agricultural, horticultural and animal products. The sale of agricultural, horticultural and animal products that are grown and raised on site. The raising, breeding and maintaining of dogs or cats, for the purposes of this chapter, are not an agricultural purpose.
- D. Single-family dwellings including manufactured homes (See Section 5-5-5.)
- E. The usual accessory buildings commonly appurtenant to a single-family dwelling. No accessory buildings are allowed without a primary single-family dwelling already constructed on site (except as permitted by special use permit). Accessory living units are prohibited. No cooking and/or bathing facilities are allowed in accessory buildings. Toilets and sinks are allowed in accessory buildings.
- F. Recreational Vehicles. Recreational vehicles may only be temporarily or intermittently occupied and under the following conditions:
 - 1. Occupation of a Recreational Vehicle is limited to not more than four months in any twelve month period.
 - 2. The Recreational Vehicle shall have current registration and shall be in a serviceable condition so it can be operated in a safe and lawful manner on the roads of the State of Idaho.
 - 3. The Recreational Vehicle shall not be set on blocks or have the running gear removed.
 - 4. No decks or additions shall be attached to the recreational vehicle and the vehicle shall not be skirted.
 - 5. The Recreational Vehicle shall not be used as a dwelling except as provided in this section. The occupant of an RV must have a primary residence other than the RV.
 - 6. No independent mail service shall be allowed to the Recreational Vehicle.
 - 7. The Recreational Vehicle shall not be used as rental property or used for commercial purposes.
 - 8. The Recreational Vehicle must be fully self-contained and removed from the site to empty holding tanks at an approved location.

9. An RV may be used as a dwelling for the owners of the parcel on which the RV is located during construction of a dwelling, or substantial remodel of the dwelling on that parcel as evidenced by a valid permit for such construction. In such cases, the provisions of this section regarding the owner's primary residence, duration of occupation of the RV and mail service shall not apply. Upon completion of the dwelling or expiration of the building permit for the dwelling, the RV shall revert to temporary or intermittent use as provided in this section.

G. Portable Storage Containers and semi-truck cargo trailers not used for human occupancy:

1. No more than two (2) portable storage containers or shall be located on a single lot or parcel of land.
2. Portable storage containers shall not be used to store or transport nonresidential materials and substances, including but not limited to the following: contractors' materials and equipment, solid waste, hazardous materials, explosives and unlawful substances and materials.
3. Portable storage containers shall not remain on lots or parcels of land longer than thirty (30) consecutive calendar days and no more than sixty (60) calendar days per calendar year, except when used for storage in conjunction with the construction or substantial remodel of a dwelling on the parcel on which the portable storage containers are placed. In such cases the portable storage containers may remain on site for the period in which a valid building permit exists, until completion of the dwelling or expiration of the building permit for the dwelling.
4. The use of semi-truck cargo trailers for any purpose is prohibited, except when included as part of a special use permit or home occupation.

5-5-2: SPECIAL USES:

The following uses are permitted only with a special use permit issued pursuant to this chapter, and except for the uses herein specified; no other use can be made of such land or structures located within the residential district:

A. Accessory buildings prior to construction of a single family dwelling.

B. Churches

C. Public, municipal and government uses, including fire, police and safety uses. This use category includes the land, premises and buildings. This use excludes public parks.

D. Equine boarding facilities. "Equines" are defined as horses, ponies, mules and donkeys, or any other animal belonging to the family Equidae. "Equine boarding facilities" are defined as any facilities used for the care and maintenance of another individual's equines for profit by the property owner or individual residing on the

property. For purposes of this use, "profit" is any exchange of money or services for the care and maintenance of two (2) or more equines. More specifically, care and maintenance may include, but is not limited to, providing anything from minimal to full service boarding. Minimal boarding is where the property owner provides only shelter and/or grazing, and the equine's owner provides all other care. Full service boarding is where a range of services are provided by the property owner that may include feeding, exercise and veterinary care.

E. Public and private schools

F. Public utility structures such as substations, pumping plants, telephone exchanges and similar uses.

5-5-3: MINIMUM LOT SIZE AND STREET FRONTAGE:

A. Lot Size: No building or structure shall hereafter be erected on any lot, tract, plot or block having an area of less than one acre, minus such portion which may be granted, conveyed or licensed for use as a road, right of way or other easement, not in excess of one-half ($\frac{1}{2}$) of the dedicated road right of way or width of streets required by other ordinances of the city.

B. Exceptions Regarding Lot Size – The City may grant an exception to the minimum lot size requirement for purposes of issuing building permits if any one of the following conditions exist:

1. The lot was created through the City's Short Subdivision process (pursuant to Ordinance #73, or as subsequently amended) after May 29, 1979. Property owners shall provide proof of signed order of decision or record of survey signed by City.
2. The lot was created through the City's Subdivision process (pursuant to Ordinance # 52, or as subsequently amended) after December 11, 1975. Property owners shall provide proof of signed order of decision or plat signed by the City.
3. Lots or parcels established by subdivision plat or recorded deed of conveyance prior to Ordinance #4 dated March 14, 1961. For parcels created by a deed of conveyance, property owners shall provide the deed history / chain of ownership which demonstrates the date the parcel was first created and that it has been held as a separate parcel since March 14, 1961.
4. Parcels lawfully created after March 14, 1961, but prior to December 11, 1975 shall have a minimum size of 0.8 gross acres, when including $\frac{1}{2}$ of the adjacent City road right of way.

C. Street Frontage: All lots shall have one hundred ten feet (110') of frontage on a publicly dedicated street, accepted and maintained by the City or the Lakes Highway District.

D. Exceptions Regarding Street Frontage – The City may grant an exception to the minimum street frontage requirement for purposes of issuing building permits if any one of the following conditions exist:

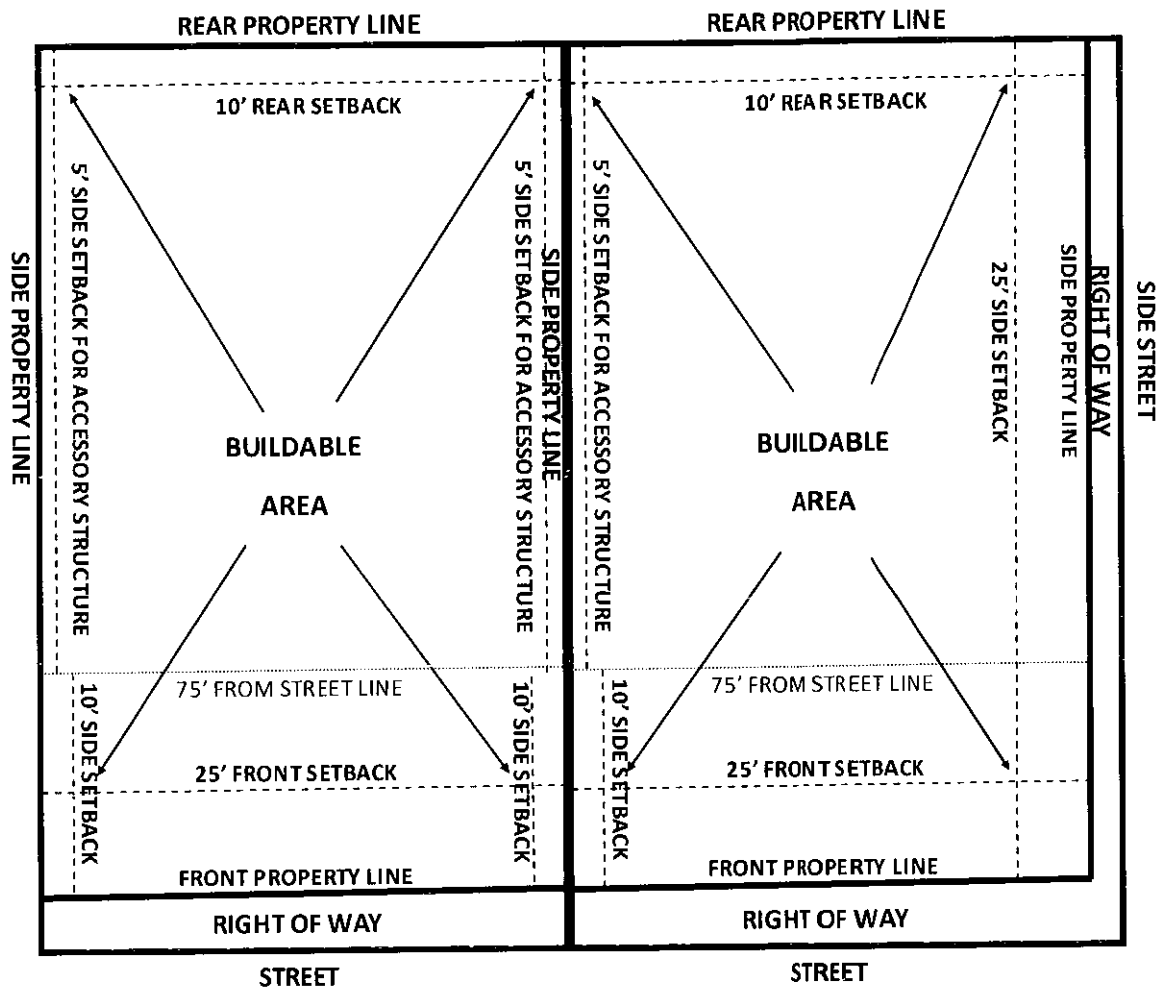
1. The lot was created through the City's Short Subdivision process (pursuant to Ordinance #73, or as subsequently amended) after May 29, 1979. Property owners shall provide proof of signed order of decision or record of survey signed by the City.
2. The lot was created through the City's Subdivision process (pursuant to Ordinance # 52, or as subsequently amended) after December 11, 1975. Property owners shall provide proof of signed order of decision or plat signed by the City.
3. The lot or parcels was legally created prior to Ordinance #52 dated December 11, 1975. For parcels created by a deed of conveyance, property owners shall provide the deed history / chain of ownership which demonstrates the date the parcel was first created and that it has been held as a separate parcel since December 11, 1975.

5-5-4: YARDS AND LOT COVERAGE:

A. Front and Rear Yards: For every structure there shall be a front yard of not less than twenty five feet (25') and a rear yard of not less than ten feet (10') in depth.

B. Side Yards: Each dwelling or residence shall have a side yard not less than ten feet (10') in depth; accessory buildings within seventy five feet (75') from the front property line shall have a side yard not less than ten feet (10') in depth; provided, however, that an accessory building more than seventy five feet (75') from the front property line shall have a side yard not less than five feet (5'); and provided further, that each dwelling, residence and accessory building on a corner lot shall have a side yard of not less than twenty five feet (25') along the flanking or side street.

C. Lot Coverage: Lot coverage shall not exceed 40% of the parcel size (NOT including any portion of the adjacent street right of way) and not exceeding 30,000 square feet, whichever is less.



*** INTERIOR LOT ***

*** CORNER LOT ***

5-5-5: MANUFACTURED HOMES:

- A. Idaho Code 67-6509A requires the city's land use regulations to be amended to allow for siting manufactured homes in residential areas within the city.
- B. Manufactured homes shall be as defined in Idaho Code 39-4105(8).
- C. Manufactured homes on individual lots for single-family residential uses shall meet the following criteria:
 1. The manufactured home shall be multi-sectional and enclose a space not less than one thousand (1,000) square feet.
 2. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter in such a manner that the finished floor

of the home is located not more than sixteen inches (16") above grade except when placed on a basement foundation.

3. The manufactured home shall have a pitched roof with a minimum slope of three feet (3') in height for each twelve feet (12') in width.
4. The manufactured home shall have exterior siding or roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings.
5. In addition to the provisions of subsections C1 through C4 of this section, a manufactured home shall be subject to any development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.

5-5-6: HEIGHT OF STRUCTURES:

The maximum height of structures in the residential district shall be as follows:

Principal structure (residence)	32 feet or a maximum of 2 stories, whichever is less
All accessory structures	25 feet or a maximum of 2 stories, whichever is less

5-5-7: FENCING:

A. General:

1. Permit required; Inspection: All fences require an approved permit from the city to erect or construct. A photo of the proposed fence is required with the permit. The property lines shall be clearly marked for the city inspector to determine accurate setbacks. The applicant shall call for an inspection at the time of post installation. Any fence exceeding six feet (6') in height will require a building permit and meet international building code standards. A fence permit shall be valid only for the term of issuance, unless sooner suspended or revoked. A fence permit is not required for painting, maintenance, or repair. Total replacement of an existing fence shall require a permit. Fees associated with the fence permit shall be fixed in the Dalton Gardens fees resolution.
2. Materials for Fences and Walls: Fences and walls may be of any material commonly used in construction, provided that said fence or wall meets any criteria for sturdiness and construction as established in other city regulations.

3. **Measurement of Heights:** The height of fences and walls shall be measured from the top of the fence or wall at its highest point to the finished grade of the lot or parcel adjacent to the fence. If the fence or wall is built on a mound or is otherwise constructed on a level above the average finished grade of the parcel or lot, the height of the mound shall be included in the overall height of the fence or wall. However, where parking, loading or other similar areas are constructed adjacent to a fence or wall and are constructed above the finished grade of the parcel, the height of fences or walls shall be measured from the top of the parking/loading surface.
4. **Fences for Swimming Pools:** Swimming pools shall be enclosed by buildings or fences or walls in accordance with the provisions of the international building code, as adopted, and other applicable provisions of this code.

B. Residential Fencing:

1. **Height and Setback Standards:** Fences shall comply with the following height and setback standards:
 - a. Fences erected at the property line shall be no more than four feet (4') in height.
 - b. Fences over four feet (4') in height and up to six feet (6') in height may be erected with obstructed views, however shall be set back at least fifteen feet (15') from any property line that is adjacent to a public street.
 - c. Fences over six feet (6') in height may be erected with obstructed views, however require a building permit and may or may not require an engineered plan. Fences over six feet (6') in height shall be set back at least seventy five feet (75') from any property line that is adjacent to a public street.
 - d. Deer-proof fencing that is at least seventy five feet (75') from a public street may be erected or installed using entirely woven wire and posts, may be electrified and shall not exceed eight feet (8') in height without a building permit.
 - e. All fences shall meet vision triangle standards so to not obstruct views from street or driveway.

C. Residential Vision Triangle Standards:

1. No buildings or other structures including fences above three feet (3') in height shall be allowed inside the vision triangle. The vision triangle is a triangle of land that has an unobstructed view from a curb line of a driveway, roadway or street intersection. Intersections include all cases where two (2) streets intersect and locations where driveways intersect streets. The area needed to be clear of obstruction for safe turning movements is called the "vision triangle".

2. No tree, shrub or growing plant or other landscape feature shall obstruct or interfere with the vision triangle of a street, driveway, alley or roadway at the point of an intersection. Any fence, landscape feature or growing plant shall be considered an obstruction or interference at the point of any intersection if it exceeds three feet (3') or thirty six inches (36") in height and is within fifteen feet (15') at a driveway-street intersection and fifteen feet (15') in any direction of the street intersection. Height will be measured at the level of the street.
3. The following standards apply:

Street to street vision triangle	15 feet x 15 feet
Street to driveway vision triangle	15 feet x 15 feet

NOTE: VISION TRIANGLE PHOTO OMITTED FOR CLARITY

- D. Trees To Be Trimmed: All trees located within twenty five feet (25') of the property lines of any property at an intersection of one or more public streets within the city shall have all foliage, including leaves and branches, trimmed to a point eight feet (8') above the level of the street under or near said trees.

5-5-8: PUBLIC PARKS:

A. Definitions:

ATV: All-terrain vehicle.

UTV: Utility terrain vehicle.

B. Standards for Use within Public Park or Horse Arenas:

1. Hours of use: Sunrise to sunset.
2. No motorized vehicles: Except in designated driving and parking areas.
3. All garbage must be packed out or placed in designated garbage receptacles.
4. Horse arena: All ATV/UTV by city permission only.
5. No overnight camping.
6. Public parks (see section 7-2-5 of this code): Dogs prohibited.
7. Horse arena (see section 7-2-5 of this code): Dogs allowed but must be on a leash at all times.

8. Horse arena: Gates on warm up and performance ring shall remain closed at all times with the exception of entering and leaving ring. Access gates to arena from parking lot shall be closed at sunset.

C. Violation: Any violation of the provisions of this section shall be deemed an infraction and shall subject the offender to penalties in accordance with section 1-4-1 of this code.

SECTION 3 AMENDMENTS TO TITLE 5 CHAPTER 8.

Title 5 Chapter 8 shall be amended as follows:

Title 5, Chapter 8 VARIANCES

5-8-1: PURPOSE:

5-8-2: APPLICABILITY:

5-8-3: DEFINITIONS:

5-8-4: REQUIREMENTS FOR GRANTING A VARIANCE REQUEST:

5-8-5: PROCEDURE FOR REQUESTING A VARIANCE:

5-8-1: PURPOSE:

The purpose of this chapter is to provide definitions, standards, and procedures for acting on requests for variances to this code.

5-8-2: APPLICABILITY:

This chapter shall apply to all zoning districts unless otherwise indicated.

5-8-3: DEFINITIONS:

Whenever the following words or phrases are used in this chapter they shall have such meaning as herein ascribed to them, unless the context makes such meaning repugnant thereto:

ADJOINING PROPERTY: All properties within, or adjacent to, a line three hundred feet (300') from the property for which a variance is requested. Contiguous properties owned by the same party are all treated as one property.

SITE CHARACTERISTICS: The distinguishing physical characteristics of a property for which a variance is requested, including area, shape, soil and ground conditions, topography (slope), and access.

VARIANCE: A modification of or an exception to the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, building height, or other ordinance provision of this title affecting the size of lots or the size or shape of a structure or the placement of the structure upon lots.

5-8-4: REQUIREMENTS FOR GRANTING A VARIANCE REQUEST:

A variance, not being a right, may be granted to an applicant only if the following requirements for granting a variance request are satisfied. The burden of proof rests upon the applicant for a variance to establish the following:

A. Submission of a completed application packet to the city;

B. Proof through evidence provided by the applicant:

1. That the site characteristics of the property for which the variance is requested cause undue hardship to the property owner when complying with specific provisions of this title;
2. That reasonable uses of the property are not possible without the requested variance; and
3. That approval of the requested variance will not be in conflict with the public interest and will not create a nuisance, harm adjoining properties, or have an adverse effect on implementation of the comprehensive plan;

C. A variance may not be granted if it is for the property owner's convenience or financial profit alone; and

D. The granting of a variance must grant the minimum relief from the requirements of this title necessary to allow a reasonable use of the property.

5-8-5: PROCEDURE FOR REQUESTING A VARIANCE:

A. If a variance is determined to be necessary by the city, a property owner or applicant may apply for a variance. The burden of proof lies with the property owner or applicant to provide accurate and sufficient information within the variance application packet.

B. A preapplication conference is required by a property owner or applicant to complete a variance application. The city shall provide the information on the application requirements, criteria and process to obtain a variance from the city.

C. A variance is requested by submitting to the city a complete application packet.

1. An application packet shall consist of an application form provided by the city and attachments thereto that together include all of the following:

- a. The name, address, and telephone number of the owner(s) of the property for which a variance is requested and of the applicant(s), if different. If the applicant is different from the owner, then the consent of the owner is required.
- b. The legal description of the property for which a variance is requested.
- c. At least six (6) photographs of the property for which a variance is requested, taken from all sides at the property line. Photographs should try to depict the applicable site characteristics of the property.
- d. A site plan of the property for which the property is requested. The site plan shall meet the requirements of chapter 10 of this title, drawn to scale and also delineate the following:

- (1) All structures, both existing and proposed;

(2) All dimensions, including property lines and setbacks from property lines to structures; and

(3) All site characteristics that support the request for a variance.

2. A written narrative is required that explains all of the following:
 - a. The purpose of the variance;
 - b. Which site characteristics, in the absence of a variance, cause undue hardship on the property owner;
 - c. A detailed description of the reasonable uses of the property that are not possible without approval of the requested variance;
 - d. A statement that indicates how the approval of the variance will not be in conflict with the public interest and will not create a nuisance, harm adjoining properties, or have an adverse effect on implementation of the comprehensive plan;
 - e. A statement from the applicant that he/she understands and agrees that the variance will not be granted if it is for the property owner's convenience or financial profit alone; and
 - f. That the requested variance is the minimum relief from the requirements of this title necessary to permit a reasonable use of the property.
3. The applicant shall provide a mailing list of the names and mailing addresses and two (2) sets of completed mailing labels of all adjoining property owners within three hundred feet (300') of the subject property. 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.
4. The applicant shall remit applicable fees to the city as determined by the city's fee resolution.

D. Upon receipt of an application for a variance, the city staff shall check that it is complete, including fees paid. If an application is not complete the city staff shall so advise the applicant and a hearing shall not be scheduled.

E. Upon determining that an application is complete, the city staff shall:

1. Set the matter for a hearing before the Dalton Gardens planning commission, allowing for sufficient time to comply with all notice requirements.
2. Give notice of the hearing to the applicant and adjoining property owners.

F. A public hearing will be held by the Dalton Gardens planning commission using the procedures found in chapter 10 of this title. The commission shall, after reviewing the application packet and taking any testimony and receiving any exhibits offered by the applicant and members of the public at a hearing for that purpose, make specific written findings as to whether the requirements for granting a variance request have been satisfied.

G. Within thirty (30) days after the public hearing, the commission shall either approve, conditionally approve or deny the application as presented or delay such decision for a

definite period of time for further study. The commission's decision shall include any conditions that should be attached to the approval of the application, including conditions designed to mitigate the impact of the variance

H. The commission'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 as to whether the requirements for granting a variance have been satisfied;
2. Shall, based on its findings, approve or deny the requested variance application;
3. Shall be issued within sixty (60) days of the closing of its hearing on the matter; and
4. May include conditions upon its approval of the variance application, including conditions designed to mitigate the impact of the granted variance. Violation of such conditions shall be deemed a violation of this title.

I. Under no circumstances may the commission grant a variance that permits a use of the property not permissible under the terms of this title in the district involved or any use expressly or by implication prohibited by the terms of this title in said district.

J. The clerk shall notify the property owner (and the applicant, if different) of the commission's decision within five (5) business days of its issuance.

K. The commission's decision may be appealed to the City Council under Title 5 Chapter 10 Section 4 of the Municipal Code, where the decision after a proper appeal shall then be the final decision of the city.

SECTION 4. 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 5. REPEAL OF CONFLICTING PROVISIONS.

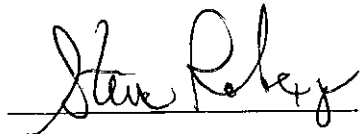
All provisions of the ordinances of the City of Dalton Gardens which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. 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

5th day of April



STEVE ROBERGE, Mayor

ATTEST:



VALERIE ANDERSON, Clerk