

CITY OF DALTON GARDENS, IDAHO

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 1 CHAPTER 7, SECTION 1 TO REQUIRE POSTING OF AGENDAS ON THE CITY WEBSITE; AMENDING TITLE 1, TO ADD CHAPTER 11 TO PROVIDE FOR APPEALS; AMENDING TITLE 2, TO MAKE THE PROVISIONS FOR THE BUILDING CODE BOARD OF APPEALS CONSISTENT WITH THE BUILDING CODES; AMENDING TITLE 3 CHAPTER 6, SECTION 8 TO MAKE APPEALS FOR HOME BASED BUSINESSES CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 3, CHAPTER 7, SECTION 5 TO MAKE APPEALS FOR PARADE PERMITS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 4, CHAPTER 1, SECTION 5, SUBSECTION B. TO MAKE IT CONSISTENT WITH OTHER CODE SECTIONS; AMENDING TITLE 4, CHAPTER 1, SECTIONS 10 AND 11 TO MAKE APPEALS RELATED TO THE BUILDING CODE CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 4, CHAPTER 3, SECTION 10 TO MAKE SITE DISTURBANCE APPEALS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 4, CHAPTER 5, SECTION 10 TO MAKE HILLSIDE DEVELOPMENT APPEALS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 5, CHAPTER 3, SECTION 1 TO MAKE APPEALS RELATED TO CLASSIFICATION OF UNLISTED USES IN THE COMMERCIAL ZONE CONSISTENT WITH OTHER SECTIONS OF THE CODE; REPEALING TITLE 5, CHAPTER 3, SECTION 13 IN ITS ENTIRETY; AMENDING TITLE 5, CHAPTER 7 SECTION 6 TO MAKE SPECIAL USE PERMIT APPEALS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 5, CHAPTER 8, SECTION 5 TO MAKE VARIANCE APPEALS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 5, CHAPTER 10, SECTION 3 TO CLARIFY NOTICE PROCEDURES FOR PUBLIC HEARINGS; AMENDING TITLE 5, CHAPTER 10, SECTION 4 TO MAKE ZONING APPEALS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 5, CHAPTER 10, SECTION 5 TO DELETE THE SECTION IN ITS ENTIRETY; AMENDING TITLE 5, CHAPTER 10, SECTION 7 TO MAKE APPEALS FOR THE NOTICE AND ORDER PROCESS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 6, CHAPTER 6, SECTION 5 TO MAKE APPEALS ON SHORT SUBDIVISIONS CONSISTENT WITH OTHER SECTIONS OF THE CODE; AMENDING TITLE 7, CHAPTER 4, SECTION 4 TO MAKE APPEALS REGARDING SUBSURFACE SEWAGE DISPOSAL SYSTEMS CONSISTENT WITH OTHER SECTIONS OF THE CODE AND TO ELIMINATE THE VARIANCE PROVISION FOR THIS CHAPTER; 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 1, CHAPTER 7, SECTION 1

ADD NEW SUBSECTION J.

J. In accordance with Idaho Code 74-204, all agendas for public meetings shall be posted on the city's website.

SECTION 2: AMENDMENTS TO TITLE 1, ADDING NEW CHAPTER 11 1-11-1: APPEALS

A. APPEAL OF ADMINISTRATIVE DETERMINATIONS

1. General Provisions: The Council shall hear and decide appeals where it is alleged there is error in any order, requirement, recommendation or determination made by the Administrator, department officials and employees in the enforcement of this Code. Appeals concerning staff interpretation or administration of this Code may be filed by any person aggrieved. All appeals involving interpretation and enforcement shall first be presented to the City Council and recourse from the decision of the Council shall be to the courts as provided by law.

2. Procedures: Appeals shall be filed within a reasonable time, not to exceed thirty (30) days from occurrence of the action being appealed, by filing with the City Clerk a written notice of appeal specifying the grounds thereof and relief sought. The Council shall decide the same within a reasonable time following the hearing. At the hearing, any affected party may appear in person, by agent or attorney.

- a. Appeals must be in writing, filed with the clerk, specify the action, order, or decision appealed from, and state the relief sought.
- b. Upon receipt of an appeal, the clerk shall:
 - i. Collect any required fees;
 - ii. Set the matter to be heard by the council within a reasonable time;
 - iii. Fix a reasonable time for the hearing of the appeal;
 - iv. Give notice of the hearing;
 - v. Notify any affected parties, including but not limited to 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;

3. Appeal Stays Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the Council finds, after the notice of appeal is filed with it, that by reason of facts stated in the appeal, a stay would, in their opinion cause imminent peril to life and property. In such cases, proceedings shall not be stayed other

than by a restraining order which may be granted by the courts after having due cause shown.

B. APPEAL OF PLANNING COMMISSION DECISION

Appeals concerning a final decision made by the Planning Commission may be filed by any applicant or affected person and such appeal shall be processed under the same provisions as outlined in subsection A. of this section and chapter.

C. APPEAL/RECONSIDERATION OF CITY COUNCIL DECISION

1. Any affected person may request reconsideration of a final decision made by the City Council by filing such request within a reasonable time, not to exceed fourteen (14) days from the date of signing of the final decision, or from the date of the decision if no written decision will be created. Such a request for reconsideration shall specify the grounds of the appeal or deficiencies in the decision and shall be filed with the City Clerk.

2. The City Council shall review the petition for reconsideration at its next regular meeting and decide whether to reconsider the matter. If the City Council grants reconsideration in whole or in part, a hearing before the City Council will be scheduled to address the specific deficiencies identified by the applicant or affected person, which (if applicable) shall be conducted pursuant to the notice procedures set forth in section 5-10-3. The issues examined upon reconsideration shall be limited to the issues raised by the petition for reconsideration and the record previously established, as well as applicable law.

3. Following the hearing on reconsideration, the City Council may affirm, reverse, or modify, in whole or in part, its prior decision and shall provide a written decision to the applicant and the affected person(s) within sixty (60) days of receipt of the request for reconsideration. If the City Council fails to timely decide, the request for reconsideration is deemed denied.

D. JUDICIAL APPEALS:

After a written decision is issued, or after a revised written decision is issued under a reconsideration proceeding, any affected party may appeal the decision to a court of competent jurisdiction.

SECTION 3: AMENDMENTS TO TITLE 2, CHAPTER 1 (BOARDS AND COMMISSIONS - BUILDING CODE BOARD OF APPEALS)

Chapter 1

BOARD OF APPEALS

2-1-1: BOARD ESTABLISHED:

2-1-2: MEMBERSHIP; TERMS OF OFFICE:

2-1-1: BOARD ESTABLISHED:

A board of appeals is hereby established to ~~provide final interpretations of the provisions and to hear appeals~~ of administrative decisions made pursuant to the international and NFPA codes adopted under Section 4-1-2 of this code. ~~provided under the uniform building code, the life safety code, the uniform mechanical code, the uniform housing code and the uniform code for the abatement of dangerous buildings.~~

2-1-2: MEMBERSHIP; TERMS OF OFFICE:

The board of appeals shall consist of three (3) members who are not employees of the city, and shall be qualified by experience and training to pass on matters pertaining to building construction. ~~whose t~~ Terms shall be for four (4) years, commencing with the term of the mayor, and shall be appointed by him subject to confirmation of the council. The building inspector official shall be an ex officio member of the board of appeals and the secretary thereof.

SECTION 4: AMENDMENTS TO TITLE 3, CHAPTER 6, SECTION 8, SUBSECTION C. (HOME BASED BUSINESSES)

3-6-8: ADMINISTRATION:

C. Appeals: Appeals concerning interpretation or administration of this chapter shall be processed in accordance with Section 1-11-1. ~~may be taken by any person aggrieved. Such appeals shall be filed within a reasonable time, not to exceed forty five (45) days from occurrence of the action being appealed. A notice of appeal specifying the grounds of the appeal shall be filed with the clerk. The clerk shall transmit to the planning commission all papers constituting the record upon which the action appealed was taken. The clerk shall schedule the item for a hearing to be commenced within sixty (60) days of filing the notice of appeal and shall give legal public notice, as well as due notice to the parties in interest. The planning commission shall decide the matter within forty five (45) days of completion of the appeal hearing.~~

~~The decision of the planning commission may be appealed to the mayor and city council, provided that a notice of appeal is filed with the clerk within ten (10) days of the decision. The mayor and city council shall decide the matter within forty five (45) days.~~

SECTION 5: AMENDMENTS TO TITLE 3, CHAPTER 7, SECTION 5, SUBSECTION G. (PARADES)

3-7-5: PERMIT REQUIRED:

~~G. Appeals: Appeals concerning interpretation or administration of this chapter shall be processed in accordance with Section 1-11-1. Any applicant shall have the right to appeal the denial of a permit or imposition of conditions to the city council. The denied applicant shall make the appeal within forty eight (48) hours after receipt of the denial by filing a written notice with the city clerk. The city council shall attempt to reach a determination prior to the planned date and time of the parade at its next regularly scheduled meeting if it can be properly noticed.~~

SECTION 6: AMENDMENTS TO TITLE 4, CHAPTER 1, SECTION 5, SUBSECTION B. (BUILDING CODES)

4-1-5: OUTSIDE AGENCY REVIEW CERTIFICATION OF OCCUPANCY:

~~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 4-1-11 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 4-1-11 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 appeal shall be conducted in accordance with the provisions of Section 1-11-1 A. of this code. 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.

SECTION 7: AMENDMENTS TO TITLE 4, CHAPTER 1, SECTION 10 (BUILDING CODES)

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.

SECTION 8: AMENDMENTS TO TITLE 4, CHAPTER 1, SECTION 11, SUBSECTION F. (BUILDING CODES)

4-1-11: REMEDIES AND PENALTIES

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 1-11-1 ~~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 ~~thirty (30) 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.

Service may be made by delivering the notice and order by:

- i. delivering the notice and order in person to the record owner; or
- ii. delivering the notice and order upon an agent or employee of the property owner; or
- iii. delivering the notice and order upon an adult performing work upon the property; or
- iv. posting the notice and order in a conspicuous location upon the property; or
- v. placing it in the U.S. Mail postage prepaid and mailing it to the owner of record or its registered agent; or
- vi. private courier service delivered to the owner of record or its registered agent; or
- vi. electronic means including but not limited to electronic mail, text, or social media; or
- vii. publication in the official city newspaper; or
- viii. any other means reasonably calculated to provide notice of the order and notice.

SECTION 9: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 10, SUBSECTION E. (SITE DISTURBANCE)

4-3-10: ADMINISTRATION:

E. Appeals: ~~Appeals concerning interpretation or administration of this chapter shall be processed in accordance with Section 1-11-1. Appeals concerning interpretation or administration of this chapter may be taken by any person aggrieved. Such appeals shall be filed within a reasonable time, not to exceed forty five (45) days from occurrence of the action being appealed. A notice of appeal specifying the grounds of the appeal shall be filed with the Administrator. The Administrator shall transmit to the Planning Commission all papers constituting the record upon which the action appealed was taken. The Administrator shall schedule the item for a hearing to be commenced within sixty (60) days of filing the notice of appeal and shall give legal public notice, as well as due notice to the parties in interest. The Planning Commission shall decide the matter within forty five (45) days of completion of the appeal hearing.~~

~~The decision of the Planning Commission may be appealed to the Mayor and City Council, provided that a notice of appeal is filed with the Administrator within ten (10) days of the decision. The Mayor and City Council shall decide the matter within forty five (45) business days.~~

SECTION 10: AMENDMENTS TO TITLE 4, CHAPTER 5, SECTION 10, SUBSECTION C. (HILLSIDE DEVELOPMENT)

4-5-10: ADMINISTRATION:

~~C. Appeals: Appeals concerning interpretation or administration of this chapter shall be processed in accordance with Section 1-11-1. Appeals concerning interpretation or administration of this chapter may be made by any person aggrieved. Such appeals shall be filed, along with the applicable filing fee, within a reasonable time, not to exceed forty five (45) days from occurrence of the action being appealed. A notice of appeal specifying the grounds of the appeal shall be filed with the administrator. The administrator shall transmit to the planning commission all papers constituting the record upon which the action appealed was taken. The administrator shall schedule the item for a hearing to be commenced within sixty five (65) days of filing the notice of appeal and shall give legal public notice, as well as due notice to the parties in interest. The planning commission shall decide the matter within forty five (45) days of completion of the appeal hearing.~~

~~The decision of the planning commission may be appealed to the mayor and city council, provided that a notice of appeal is filed with the administrator within ten (10) days of the decision. The mayor and city council shall decide the matter within forty five (45) business days.~~

SECTION 11: AMENDMENTS TO TITLE 5, CHAPTER 3, SECTION 1, SUBSECTION B.6. (PERMITTED USES IN COMMERCIAL DISTRICT)

5-3-1: USES:

~~B.6. Classification Of Unlisted Uses: Any activity or facility which is not expressly classified within any activity group shall be included in that group whose description most closely portrays it. In cases of uncertainty as to the classification of any use, the City shall classify the use, subject to the right of appeal from such determination pursuant to the appeal procedure of Section 1-11-1, chapter 10 of this title. In cases of mixed uses as defined in section 5-3-14, "Appendix 1 Activity Groups", of this chapter, the use that occupies the majority of the floor area as determined by the City shall be considered the principal use. Such determination shall be subject to the appeal procedure of Section 1-11-1, as delineated in chapter 10 of this title.~~

**SECTION 12: REPEAL OF TITLE 5, CHAPTER 3, SECTION 13, SUBSECTION F.
(PROJECT REVIEW IN COMMERCIAL DISTRICT)**

5-3-13: PROJECT REVIEW FOR DEVELOPMENT

Delete Subsection F. in its entirety.

~~F. Appeals on the interpretation of the applicable regulations, permits required or conditions imposed by the project review team may be filed by the project proponent or the property owner within ten (10) days of the decision. Appeals to the City shall be filed on forms provided by the City under the standards of chapter 10 of this title.~~

**SECTION 13: AMENDMENTS TO TITLE 5, CHAPTER 7, SECTION 6
(SPECIAL USE PERMITS)**

5-7-6: APPEAL TO COUNCIL:

Appeals of the commission decision shall be forwarded to the city council for public hearing and determination in accordance with Section 1-11-1. ~~Appeals shall be processed pursuant to section 5-10-4 of this title.~~

**SECTION 14: AMENDMENTS TO TITLE 5, CHAPTER 8, SECTION 5, SUBSECTION
K. (VARIANCES)**

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

K. The commission's decision may be appealed to the City Council under section 1-11-1 ~~5-10-4~~ of this title, where the decision after a proper appeal shall then be the final decision of the City.

**SECTION 15: AMENDMENTS TO TITLE 5, CHAPTER 10, SECTION 3
(ZONING ADMINISTRATION)**

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. For site specific applications, nNotice 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.

SECTION 16: AMENDMENTS TO TITLE 5, CHAPTER 10, SECTION 4 (ZONING ADMINISTRATION)

5-10-4: APPEALS:

Appeals concerning interpretation, administration or decisions rendered pursuant to Title 5 shall be processed in accordance with Section 1-11-1.

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 this 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.~~

SECTION 17: AMENDMENTS TO TITLE 5, CHAPTER 10, SECTION 5 (ZONING ADMINISTRATION)

Delete section in its entirety.

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 this 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.~~

**SECTION 18: AMENDMENTS TO TITLE 5, CHAPTER 10, SECTION 7,
SUBSECTION C.1.e.
(ZONING ADMINISTRATION)**

5-10-7: VIOLATIONS AND PENALTIES:

C. Notice and Order:

- 1.e. The notice shall advise that any person(s) having record title or legal interest in the property may appeal from the issuance of the notice and order, in accordance with the procedural provisions set forth in section 5-10-4 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 notice and order must be in writing and must be received by the City Clerk within thirty (30) ~~twenty eight (28)~~ days of the date the notice and order was mailed. The notice shall also advise that failure to appeal or bring the site into compliance will result in the City recording the notice against the property.

**SECTION 19: AMENDMENTS TO TITLE 6, CHAPTER 6, SECTION 5
(SHORT SUBDIVISIONS)**

6-6-5: APPEALS:

Ordinance No. ____

Page 11

Planning Commission Recommended Draft – December 10, 2019

46904.0003.12204124.1

Appeals concerning interpretation, administration or decisions rendered pursuant to this Chapter shall be processed in accordance with Section 1-11-1.

~~A. Time For Appeal: Any decision of the commission may be appealed to the council by the applicant or any interested party within thirty (30) days following the issuance of the decision. The notice of appeal shall be on a form provided by the commission and shall be filed with the council.~~

~~B. Council Action: The council shall, at the next regularly scheduled meeting following the receipt of an appeal, consider all matters pertaining to the contested decision together with all other evidence deemed appropriate and shall affirm or reverse the decision of the commission or shall remand the matter to the commission for further investigation.~~

SECTION 20: AMENDMENTS TO TITLE 7, CHAPTER 4, SECTION 4 (SUBSURFACE SEWAGE DISPOSAL SYSTEMS)

7-4-4: APPEAL; VARIANCE:

Any appeal ~~or request for variance~~ shall be as set forth in section 1-11-1 ~~5-10-4~~ or title 5, chapter 8 of this code.

SECTION 21. SEVERABILITY.

If any provision of this chapter, or its application to any person or circumstances, be declared unconstitutional or invalid for any reason by a Court of competent jurisdiction, 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~~ control.

SECTION 22. 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 23. EFFECTIVE DATE.

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 _____

DAN EDWARDS, Mayor

ATTEST:

VALERIE ANDERSON, Clerk