



CITY OF DALTON GARDENS CODE COMPLIANCE PROGRAM MANUAL

Policies and Operating Procedures

February 13, 2023

January 5, 2023

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Preface

Code enforcement in Dalton Gardens is a priority of the City Council. The Council believes the policies and procedures in this manual will enhance code compliance and thereby the quality of life in Dalton Gardens.

With the recognition that code compliance efforts must be prioritized and cost-effective, the City is tasked to administer its code in an efficient manner. By the guidance of this 2022 manual, as revised February, 2023, the City of Dalton Gardens' Code Compliance Program will continue protecting and enhancing the city's quality of life.

Purpose

The purpose of the Dalton Gardens' Code Compliance Program Policy and Procedures Manual (hereafter "manual") is to provide written guidelines for:

- A. The prioritization of code enforcement cases;
- B. Initiation and investigation of code violation complaints;
- C. Enforcement of City Code through voluntary compliance;
- D. Prosecution of code violators who do not comply;
- E. Sanctioning of code violators and the assessment of fines and penalties; and
- F. Recovery of the City's investigation and enforcement costs.

These written guidelines are intended to increase consistency and predictability within the City's Code Compliance Program, and to educate City residents and property owners about code compliance and the consequences of violating the City's Code.

Interpretation

This manual describes the standard policies and procedures for code compliance and should be interpreted so as to maximize both the efficiency of the program and operations as well as compliance with City Code. ~~This manual should be followed unless otherwise directed by the Code Enforcement Officer or designee, Planning Administrator or designee, the Mayor or designee, or the Dalton Gardens City Council.~~

Any deviation from these procedures must be approved by vote of City Council.

Applicability

Policy: This manual applies to all code compliance administered by the City of Dalton Gardens, its employees and agents. Except as otherwise provided, the policies and procedures in this manual apply to all alleged code violations whether or not they existed or were known by the City on the effective date of this manual. The policies and procedures in this manual supersede any conflicting City policies and procedures. In the event of any conflict between this manual and City Code, the City Code shall control.

Non-Applicability to Covenants, Conditions and Restrictions. Many subdivisions and planned communities are subject to private, recorded covenants, conditions and restrictions (CC & Rs). The City's policy is not to enforce private CC & Rs.

Part 1: Policies

Policy 1: Priorities for code enforcement

Policy: City staff and contractors shall attempt to investigate and resolve all code violations within budget and staffing resources. However, because of limited code compliance resources, there may be times when all code violations cannot be given the same level of attention. But, all compliance complaints shall be logged, identified, and determined if it is a code violation within thirty (30) days, and some code violations may receive no attention at all for a period of time as determined by the Code Enforcement Officer, Planning Administrator, and city staff.

~~In circumstances where not all code violations can be investigated, the most serious violations, as determined under the priorities set forth in this section. The criteria for enforcement of priority cases shall be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations should be processed together to maximize efficiency.~~

A. Priority cases.

The City Council has established the following order of priorities for City of Dalton Gardens code violations:

1. Violations that present an imminent **threat to public life, health, safety, and environment.**
2. **Right of way obstructions** (trees, leaves falling, line of sight, [snow accumulation](#), etc.)
3. Violations which impact the **City's Sewage Management Agreement (SMA)** with the Idaho Panhandle Health District, to include:
 - a. Septic pumping violations
 - b. Multiple dwelling units on single parcel
 - c. Water usage overage in the Commercial District
4. **Solid Waste** Code violations; **Nuisances; Inoperable Vehicles; Building Code** violations consisting of ongoing non-permitted construction or failure to obtain permits;
5. **Land use violations.**

B. Lower priority cases

Policy: Complaints alleging code violations that do not fall within the priority ranking above should be processed in the order in which the complaints are received, and as code enforcement resources allow.

Exception. At the discretion of the Code Enforcement Officer, Planning Administrator and in consultation with city staff, complaints may be processed in any order that maximizes the efficiency of enforcement.

Procedure: All complaints concerning a particular type of code violation (e.g septic pumping violations), or all complaints of violations occurring on a particular property, may be processed together, regardless of the order in which the complaints are received.

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Policy 2: Initiation of code enforcement

Code enforcement may be initiated by any of the following methods:

A. Resident Complaints.

Any person may make a complaint to the City alleging one or more code violations.

1. **Form.** A resident may initiate a complaint by submitting a code enforcement complaint via the OpenGov online portal (www.daltongardens.com/permits). If a resident submits a complaint by phone or written communication (other than a completed complaint form via OpenGov), City staff shall complete the complaint form in OpenGov on their behalf. If the City receives a written complaint other than the city approved complaint form via OpenGov, the written complaint shall

~~be attached to an OpenGov complaint form completed by City staff. To be investigated, a resident complain must contain all information required on the complaint form. If a resident submits a complaint by phone or written communication (other than a completed complaint form via OpenGov), city staff shall complete the complaint form in OpenGov on their behalf. If the City receives a written complaint other than the city approved complaint form via OpenGov, the written complaint shall be attached to an OpenGov complaint form completed by City staff. To be investigated, a resident complaint must contain all information required on the complaint form.~~

2. Anonymous Complaints

Policy: The City's policy is to not accept anonymous City Code violation complaints. The City believes that anonymous complaints are not as reliable as those made by complainants who are willing to identify themselves. In addition, in many cases, the complainant's identification and testimony in court may be necessary for successful prosecution of Code violators and code enforcement.

Exceptions. The City recognizes there may be cases justifying an exception to this policy.

~~Within reason, anonymous complaints should only be accepted for code violations for priority cases and those. These are cases where the nature of an anonymous complaint reliably suggests the existence of code violations presenting an imminent threat to public life, health and safety or to the environment. Priority cases where anonymous complaints may be received may include accessory dwelling units, home-based business complaints, signs in the residential district, and/or solid waste dumping or when law enforcement agencies are involved, which threat easily may be verified by City staff. In such cases, as determined by the Planning Administrator designee, city staff shall accept the anonymous complaint for investigation.~~

3. Confidentiality

Policy: ~~The City's policy is to maintain the confidentiality of code enforcement complaint investigation files and computer records, including the identity of anonymous complainants, to the extent legally possible. The City's policy is to maintain the confidentiality of code enforcement complaint files and computer records, including the identity of the complainant, to the extent legally possible. The City believes it is important to maintain this confidentiality to assure effective investigation and prosecution of code violations. In addition, the City recognizes that some complainants do not want their names disclosed to the alleged code violator for fear of retaliation. However, in some cases it may be necessary for successful prosecution and enforcement for the complainant to be identified and to testify in court.~~

Exceptions. ~~In cases where the City chooses to cooperate with, or defer to, federal or state agencies for code enforcement, the contents of the file may be disclosed, as necessary, to the other agency.~~

Procedure: In order to maintain the confidentiality of code enforcement complaint investigation files and computer records, including the identity of anonymous the complainants, to the extent legally possible. ~~while assuring effective prosecution and enforcement and compliance with state law, the following procedures apply:~~

- a. Code enforcement files will be maintained as confidential files throughout investigation, violation prosecution and/or other types of code enforcement to the extent legally permissible.
- ~~b. The contents of code enforcement files will not be disclosed to anyone other than City staff who have a reason to know about and who are involved in the investigation, or to similar staff of an agency with which the City is cooperating. The contents of the file will not be disclosed to any other person absent court order, until: 1) the investigation is complete and a citation discovery request is made; or 2) the file is closed and disclosure is made pursuant to the public records law.~~

B. Observation by code compliance staff

Code compliance staff often observe additional potential City Code violations while conducting complaint investigations. Such observations may form the basis for additional investigation and enforcement action.

Policy: The City's policy is that code enforcement staff (within budget and staffing resources) document any potential code violations the staff observes on property that is the subject of their current investigation. Code enforcement staff shall investigate documented additional potential violations. ~~The City's policy is that code enforcement staff (within budget and staffing resources) document any potential code violations the staff observes on property that is the subject of their current investigation. Code enforcement staff shall investigate documented additional potential violations. If substantiated, staff may address noted additional violations. Staff may also document and address code violations observed on any property adjacent to the subject property, which violations are observable from the subject property.~~

C. Observation by city staff ~~other government staff~~ or fire code official

In many cases, city staff or fire code officials ~~and/or other government staff~~ may be in a unique position to observe potential code violations. ~~For example, a property appraiser in the County Assessor's office may be the only person able to observe new construction for which there is no permit.~~

Policy: Any city staff or fire code officials ~~or other staff government member~~ may report to city code compliance staff possible code violations observed while conducting routine city or other government business.

Procedure: Reports by city ~~staff or fire code officials~~ ~~or other staff~~ ~~government staff~~ under this subsection shall be made on a complaint form provided by city code compliance staff.

~~D. Observation by city council member~~

~~A city council member may report a potential code violation, or request that code enforcement staff investigate a resident report of a potential code violation by submitting a complaint form via OpenGov or in any other written form or requesting city staff to submit a complaint form on behalf of the council member, along with necessary information to initiate an investigation.~~

E. Proactive code compliance

Within available code compliance resources, the City may undertake a number of city-initiated procedures for proactive code enforcement. These procedures may include:

- ~~1. Investigations and prosecutions of code violations in particular geographic areas;~~
- 2.1. Investigations and prosecutions of code violations of a particular type throughout the City;
- 3.2. Timely and regular follow-up by city staff for compliance with conditions and requirements for permits and approvals;
- 4.3. Reporting by City staff of code violations observed while conducting City business;
- 5.4. Examination and comparison of City files for evidence of code violations;
- 6.5. Revocation of permits and approvals for failure to comply with requirements or conditions;
- 7.6. Cooperation with code compliance by other regulatory and licensing agencies; and
- ~~8. Cooperation with utility companies to terminate service, to the extent authorized by law, to non-permitted uses on property.~~

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F. Permit /Approval condition monitoring by city staff

The City routinely issues land use, environmental and construction permits with a variety of requirements and conditions, and timelines for meeting them. For example, a land use approval may require landscaping the site by a certain date, and building permits expire if construction progress and inspections are not made within periods set by state law. Code violations occur when these permit and approval conditions are not timely met.

Policy: The City's policy is that city staff may conduct timely and regular monitoring of conditions of approval and similar permit requirements for all permits and approvals.

Procedure:

1. All persons issued permits or approvals shall be given written notice of the consequences of failure to comply with requirements and conditions, including potential code enforcement.

~~1.2.~~ If any permits or approvals are not in compliance with conditions of that approval or other permit requirements, staff shall inform the applicant.

~~— if any permits and approvals are found not to be in compliance with conditions of approval or other permit requirements, staff in the appropriate city division assigned to the permit or approval monitoring shall undertake appropriate action to obtain compliance.~~

~~2.~~ If the assigned city staff are unable to obtain compliance within a reasonable time established for that purpose (not less than 30 days), they shall report the violation and any enforcement action already taken to city staff for further code enforcement action.

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G. Information from official city records

Code violations may be discovered by examining the city's own official records.

~~Potential code violations may be discovered by examining the city's own official records. For example, cross-referencing between the Assessor's records and city's records may reveal construction or land use activity without necessary permits or approvals. City staff may also discover code violations by comparing the city's own land use, environmental health and construction permit records with each other.~~

Policy: City staff may regularly compare all pertinent city records to identify potential code violations.

Procedure: Code violations discovered through comparison of information in city files shall be reported to via the online OpenGov complaint form.

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Policy 3: Investigation

When code compliance staff initiates an investigation, they may provide notice to other city departments that may have an interest in the alleged code violation, who can then involve other governmental agencies (e.g. Idaho Division of Building Safety).

~~When code compliance staff initiates an investigation, they may provide notice to any local governmental agency or other city department that may have an interest in the alleged code violation, who can then involve other governmental agencies (re: plumbing bureau, electrical bureau, etc).~~

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~~B.A.~~ Preliminary matters

At the beginning of each investigation, the following shall be established:

1. **Jurisdiction.** The property upon which the alleged code violation exists must be in the City's code compliance jurisdiction.

2. **Zoning.** The zoning of the subject property shall be determined.
3. **Permit status.** The status of any land use, building, electrical, construction (including, but not limited to structural, mechanical, plumbing) or other similar permits on the subject property shall be determined.
4. **Property ownership.** ~~These persons should include the owners and contracted purchasers. All persons with a recorded legal interest in the subject property should be identified. These persons should include the owners, contract purchasers, lessees and lienholders or other security interest holders.~~
- ~~5. Other potentially responsible persons. In addition to the persons listed in subparagraph 4 of this paragraph, any other persons potentially responsible for the alleged code violation(s) should be identified. These persons could include tenants, construction and landscape contractors and excavators.~~
- ~~6.5. Identification of applicable code provisions.~~ Code compliance staff, with the assistance of other city staff, shall identify the pertinent provisions of the City Code that may have been violated according to the complaint.
- ~~7.6. Prior Complaint History.~~ Code compliance staff shall examine City records to determine the existence and status of any prior or existing code violation complaints on the subject property or concerning the alleged violator.

B. Field investigation

1. **Purpose.** The purposes of code compliance field investigations are to:
 - a. Verify the existence and severity of code violations.
 - b. Document code violations by means of written notes, photographs, witness interviews, etc.
 - c. Obtain supporting evidence such as photographs, measurements, names and statements of potential witnesses, etc.

2. Preparations and precautions

Policy: Code compliance staff and other assigned city staff, as well as members of the public, should not be exposed to unreasonable risks of violent confrontation or injury during the course of field investigations. ~~Code compliance staff and other assigned city staff may take whatever actions are reasonable and necessary to minimize the known risk of violent confrontation or injury to themselves or others in conducting their field investigations,~~ following all statutes of the State of Idaho.

Procedure:

~~A. A. Field visits. **Announced by letter or phone call; unannounced knock and talk.** All visits to property shall be announced. Code compliance staff shall carry proper identification when conducting field investigations in their performance of duties and their vehicles shall be a marked unit.~~

~~Announced / Unannounced field visits. At the discretion of code compliance staff or other assigned city staff, a field visit to the vicinity of the subject property may be conducted without prior notice to the property owner, occupant or alleged code~~

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~~violator. Code Compliance staff shall carry proper identification when conducting field investigations in their performance of duties and their vehicle shall be a marked unit. The determination of whether or not to give prior notice shall be made on the basis of the following criteria:~~

- ~~1. The nature of the alleged violation.~~
- ~~2. Whether or not prior notice will make detection and documentation of the alleged violation more difficult.~~
- ~~3. Whether or not prior notice will unnecessarily increase the known risk of violent confrontation or injury to code compliance staff or other assigned city staff.~~

B. Entering upon property or premises

Policy: It is the city policy that code compliance staff and other assigned city staff shall not enter upon private property or premises to conduct a field investigation without authority to enter by property owner or agent.

Procedure: ~~Code compliance staff may enter unposted property to seek permission to investigate on the premises. Unless permission is granted, the investigation shall be conducted from public roads or property where permission to enter has been granted. If code compliance staff or other assigned city staff does not have permission or other authority to enter upon property or premises, and entry upon the property or premises is necessary to conduct the investigation, code compliance staff or other assigned city staff shall consult with city legal counsel prior to proceeding. If code compliance staff or other assigned city staff does not have permission or other authority to enter upon property or premises code compliance staff or other assigned city staff shall consult with city legal counsel prior to proceeding.~~

C. Report of investigation

Report. Upon completion of the initial investigation, code compliance staff or other assigned city staff may complete a report of investigation in the case record. The field investigation report should be completed as soon as reasonably possible after the date and time of the field visit to ensure a complete and accurate report.

1. The report shall include at least the following information:
 - a. Name of investigator
 - b. Date, time and place of field visit
 - c. Code violation(s) observed
 - d. If no code violation(s) observed, an explanation
 - e. Witnesses, if any, interviewed and other persons present, if known, on site at the time of the investigation
 - f. Evidence, if any, obtained (e.g., photographs)
 - g. Discussion, if any, of violation with owner, ~~occupant or other responsible person~~

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- h. Action necessary, if known, to correct violation
 - i. Recommended enforcement action
- 2. **Complainant notification.** Upon completion of the initial investigation, Code Compliance staff ~~may shall~~ notify all ~~the owner and fire code official of the status of complaint investigation. resident and other agency complainants of the status of complaint investigation.~~ This notification should include information on whether a case will be opened, the reason a case will or will not be opened, and name and contact information of the staff member assigned the code enforcement case.

Policy 4: Resolution of code complaints

It is the city's policy to attempt to reach final, satisfactory resolution of all code violation complaints. However, the City recognizes that not all complaints may be resolved successfully, ~~due to factors outside the City control. These factors can include the indigence of the code violator, the lack of City or other resources to assist the violator, statutory limitations on potential fines or other penalties for code violations, and the large number of complaints to be resolved.~~

Therefore, the City shall focus its code compliance resources on the code violations that meet the priorities set forth in this manual, and attempt to resolve those violations within a reasonable period. It is the city's policy not to close a case until it is resolved.

Procedure:

A. File Closure.

A code violation complaint will be resolved by file closure in the following cases:

1. When no code violation is found after investigation
2. After there is voluntary compliance
3. After a notice of violation has been issued and the property owner or other responsible person has corrected the violation(s)
4. When city code has been revised or updated, so as the activity (or alleged violation) no longer constitutes a violation.
- ~~5.~~ When the property on which the violation exists is sold or transferred and a ~~new~~ Code Enforcement case ~~may be amended to add the name of the new owner. is opened in the name of the new owner.~~

- ~~6-5.~~ **B. Notice of Resolution.** The City shall notify the complainant when the complaint is resolved, ~~describing the resolution.~~

~~C. Alternate Methods of Resolution. The City may explore alternate methods to resolve Code violations including mediation.~~

Part 2: Standard operating procedures

Purpose

The following operating procedures have been identified to encourage compliance with the City of Dalton Gardens City Code.

Step 1: Determine nature of complaint

As stated in Policy 1.A, all complaints must be received and recorded via OpenGov. Staff will then determine the nature of the complaint, and whether the complaint constitutes a code violation as outlined in City Code.

Outcomes / actions:

- 1) Does not constitute a code violation. Inform the complainant that the case may be a civil matter involving law enforcement and/or legal advisors. Close case. Notice of resolution not required.
 - 2) Complaint is a code violation. **Proceed to step 2.**
-

Step 2: Seek informal resolution and voluntary cooperation and compliance

Seek out informal resolution and voluntary cooperation.

Call or meet with the property owner to inform them that a complaint has been filed and to discuss the nature of the complaint. Discuss consequences of the violation if not remedied.

Outcomes / actions:

- ~~1) Issue a voluntary compliance request letter which describes the nature of the complaint, address, code references, required abatement / statement of remedial action, and deadline (Immediate remediation requested with a 14-30 day city follow up). Describe potential escalation proceeding (if not abated), and the potential for hearings (and appeals), fines, liens or other penalties.~~
- 1) Determine whether code compliance field investigation is necessary (**see Policy #3**). Prepare a written report of the nature of the complaint and any code enforcement history on the property (if known), to include current complaint, photography (if available), and any interaction with the property owner. Record written report in the case record in OpenGov. If

applicable, describe the agreed upon voluntary compliance / correction agreement -and the time frame for complying.

- 2) Issue a voluntary compliance request letter which describes the nature of the complaint, address, code references, required abatement / statement of remedial action, and deadline (Immediate remediation requested with a 30-day city follow-up). Describe potential escalation proceeding (if not abated), and the potential for hearings (and appeals), fines, liens or other penalties. Extensions may be granted with proper communication with the City.

3) Revisit the case at the end of the voluntary compliance time frame.

a. If compliance / abatement has been achieved, then the case is closed.

- i. Issue letter to property owner and complainant that compliance / abatement has been achieved. Case is closed and issuance of a Notice of Resolution.

b. If compliance / abatement has not been achieved within the voluntary compliance time frame, then proceed to step 3.

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Step 3: Issue order and notice of violation

For cases in which voluntary cooperation is not achieved, then a letter of violation is sent via certified / registered US mail.

Outcomes / actions:

- 1) A **notice of violation** is issued via certified / registered mail which describes the nature of the complaint, code references, required abatement and potential for hearing, fines, liens or other penalties.
 - a. If voluntary compliance is agreed upon, then **revert to Step 2, action 3. Step 2(2).**
 - b. If voluntary compliance is not achieved, then refer to escalation provisions and deadlines as described in the Dalton Gardens City Code (and below) for specific violation types, including non-decorative inoperable vehicles ~~non-decorative~~, building code violations, zoning (land use), and unpermitted buildings. If no compliance deadline is outlined in the Dalton Gardens City Code, then a ~~14~~ 30-day deadline is required and shall be stated in the notice of violation before additional escalation proceedings are levied. (e.g. penalties, fines, encumbrances, etc. **Proceed to step 4.**
 - c. Investigation proceedings may be conducted per policy number 3.
- 1) If no action remediation has occurred, assigned city staff may file a Notice to Title Code Enforcement may file a Record a Certificate describing the property and certifying that the property is not in compliance with the code.
 - a. A Record of Certificate is recorded with the county A Notice to Title is recorded with the county includes the following;

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- i. Provides for release of the same by recording a notice of release after a determination that the violation has been remedied.

Step 4: Administrative Enforcement

Reserved for future policy / procedures

Step 5: Judicial Enforcement

The City may elect to seek judicial enforcement of any violation and reserves the right to seek all remedies permitted in the State of Idaho.

Specific code violation types:

Procedures for the following specific code violation cases / types are outlined in the Dalton Gardens City Code:

- Abandoned or Inoperable Vehicles
- Nuisance Violations
- Building Code Violations
- Land Use Violations
- Home-Based Business Permit Violations
- Septic Pumping Violations
- Water Usage Overages

~~Abandoned or Inoperable Vehicles~~

~~In the case of Abandoned or Inoperable Vehicles, the provisions DGCC 8-3 apply.~~

~~Nuisance Violations~~

~~In the case of nuisance violations, the provisions DGCC 7-8 apply.~~

~~Building Code Violations~~

~~In the case of building code violations, the provisions DGCC 4-1 apply.~~

~~**Land Use Violations**~~

~~In the case of Land Use violations, the provisions DGCC 1-10 apply.~~

~~**Home-Based Business Permit Violations**~~

~~In the case of Home-Based Business Permit violations, the provisions DGCC 3-6 apply.~~

~~**Septic Pumping Violations**~~

~~In the case of Septic Pumping violations, the provisions DGC 7-4-1 apply.~~

~~**Water Usage Overages**~~

~~In the case of Water Usage Overages, the provisions DGC 7-4 apply.~~

Appendix

1 Forms

1.1 Complaint form – (Open Gov)

1.2 Correction Agreement

2 Notices

2.1 Voluntary Compliance Request (VCR)

2.2 Septic pumping notification

2.3 Notice of Violation

2.4 Notice of Resolution

2.5 Septic pumping violation

2.6 Complaint Notification

3 Reports

3.1 Field investigation report