

ORDINANCE No. 10-10

Ent 024822 Bk 72 Pg 753
Date: 07-APR-2010 2:10:59P
Fee: None
Filed By: CF
KERI PALLESEN, Recorder
DAGGETT COUNTY
For: DAGGETT COUNTY

AN ORDINANCE AMENDING THE DUTCH JOHN PLANNING DISTRICT ZONING REGULATION

WHEREAS, Utah Code provides for the county legislative body to adopt and amend zoning ordinances within its jurisdiction; and

WHEREAS, the Planning and Zoning Commission approved certain changes to the Dutch John Planning District Zoning Regulation on December 30, 2009; and

WHEREAS, the county legislative body approved said changes on February 17, 2010 and said changes need to be adopted by ordinance.

**THEREFORE, THE COUNTY LEGISLATIVE BODY OF DAGGETT COUNTY
ORDAINS AS FOLLOWS:**

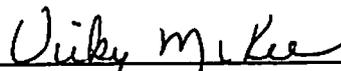
SECTION I. The Dutch John Planning District Zoning Regulation is amended as set forth in Exhibit A, attached hereto and incorporated by reference.

SECTION II. Effective Date.

This ordinance shall take effect, fifteen (15) days after enactment, and after depositing of a copy in the Clerk-Treasurer's Office and proper posting throughout the county, as required by Utah Code Annotated section 17-53-208.

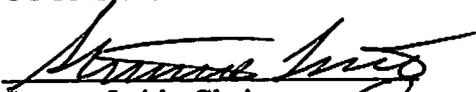
Dated this 6th day of April, 2010

ATTEST:

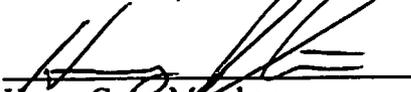


Vicky McKee
County Clerk-Treasurer

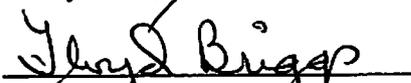
BOARD OF DAGGETT
COUNTY COMMISSIONERS:



Stewart Leith, Chairman



Henry Gutz, Member



Floyd Briggs, Member

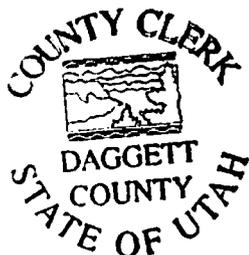


EXHIBIT A

DUTCH JOHN PLANNING DISTRICT ZONING REGULATION

Last Amended: January 18, 2008

Excerpts for County Commissioner Hearing relating to Overnight or
Short-term Rentals on 2/17/2010
(Proposed Changes are highlighted in yellow)

From Pages 1 & 2

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TABLE OF USES							
USES	ZONING DISTRICTS						
	R-1	R-R-1	R-2	M-H	MU-40	C	LI
Bed and Breakfast Inn	C	C	C			P	
Campground						P	
Dwelling, Single-Family	P	P	C	P	P	C	C
Dwelling, Multi-Family	C		P				
Dwelling, Short-term Overnight Rental	C					C	
Motel						P	C
Recreation/Commercial						P	
Resort Lodge						P	
Travel Trailer Park						P	

Table of Uses Notes:
 P = Permitted Use
 C = Conditional Use
 Blank = Prohibited Use

From Pages 23-29

**CHAPTER 6
 USE DEFINITIONS**

For the purpose of applying the Table of Uses and rendering other decisions required by this Ordinance, the Uses identified in the Table of Uses are hereby defined as follows:

- (1) (5)Bed and Breakfast Inn: A private home of residential design, with no fewer than three (3) but no more than nine (9) rooms, that provides short-term lodging for a charge to the public, generally for periods of less than one (1) month, having an owner or manager residing on the site, in which no more than two (2) daily family style meals are provided, to guests of the inn only.
- (2) (6)Campground: A privately owned area of land used or intended to be used, let, or rented for overnight or short term occupancy by campers, trailers, tents, or recreational vehicles.

- (3) (11) Dwelling, Single-Family: A building or structure occupied as or designed or intended for occupancy as a residence for one (1) family, the structure having one (1) dwelling unit. (See also U.C.A. 57-21-2). Each single-family dwelling shall have a minimum of 900 square feet and shall be a minimum of forty five (45) feet wide, facing the street, and twenty (20) feet deep. The minimum rental permitted shall be thirty (30) days.
- (4) (12) Dwelling, Short-term ~~Overnight~~ Rental: Rental of any property within residential zoning districts shall ~~not~~ be permitted for periods of less than 30 days only through application and approval of a conditional use permit. Rental of dwellings within other areas are ~~permitted~~ or conditional or not permitted as outlined in the Table of Uses.
- (5) (13) Dwelling, Multi-Family: A building or structure occupied as or designed or intended for occupancy as a residence for more than one (1) family and containing two (2) or more separate dwelling units which may be separated vertically or horizontally, but not including commercial lodging or bed and breakfast inns. Each dwelling unit shall have a minimum living quarters area of 850 square feet and the structure must be a minimum of 45 feet wide, facing the street, and 20 feet deep. The minimum rental period for a multi-family dwelling shall be 30 days.
- (18) (28) Motel: A building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.
- (19) (39) Recreation, Commercial: Recreational facilities operated as a business and open to the general public for a fee such as golf driving ranges and baseball batting ranges, outfitters, and guide services.
- (20) (44) Resort Lodge: A facility, including either a single building or resort cabins, which serves as a destination point for visitors and generally has accessory recreational facilities for the use of guests.
- (21) (52) Travel Trailer Park: Any parcel of land upon which two or more travel trailers for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodation.

From Pages 31-38

**CHAPTER 8
CONDITIONAL USE PERMITS**

Section 801 Issuance and Purpose :

Conditional Use permits may be issued as provided by this Ordinance for any of the uses for which a Conditional Use permit is required as identified in the Table of Uses.

The purpose of the issuance of a Conditional Use permit is to allow the proper integration into the Dutch John community of uses which may be suitable only in specific locations in a zoning district, or only if such uses are designed, arranged or conducted on the site in a particular manner.

Section 802 Application Requirements:

All requests for a Conditional Use permit shall be made on the application form provided by the County Planning and Zoning Commission detailing the nature of the Conditional Use request. The applicant shall also provide the necessary information identified for the submission and review of a plat, site plan or building permit, whichever is applicable. The Daggett County Planning and Zoning Commission is authorized to render a final decision on the issuance of a Conditional Use permit.

Section 803 Conditions for Approval :

Upon receipt of an application, which is fully completed and provides all of the information required herein, along with the application fee, the building official and the Chairman of the Planning Commission shall review the application and shall consider the use requested in the conditional use permit and compare that with the existing neighborhood. If the building official and Planning Commission Chairman or the full Planning Commission determine that the proposed use is likely to generate significant public interest or that there is a legitimate question as to the suitability of the proposed use, after considering the character of the neighborhood and the economic and aesthetic effects of the proposed use and the harmony of the proposed use with the existing neighborhood, the Planning Commission Chairman shall schedule a neighborhood meeting between the neighboring property owners and the developer. Notice by mail shall be sent to all property owners of record within 1,000 feet of the proposed conditional use. When the developer and affected property owners cannot reach a consensus of opinion regarding compatibility of the proposed land use, the Planning Commission shall hold a public hearing and prior to making a decision shall listen to all of the concerns of all of the affected property owners and interested parties regarding the proposed project's compatibility.

If, after considering the information and comments of the affected property owners and the applicant for the conditional use permit and following any evaluation or investigation by the Planning Commission or Building Official, the Planning Commission shall make a determination as to whether or not the proposed use is compatible and in harmony with the neighborhood. If the Planning Commission finds that proposed use is incompatible, not in harmony with the neighborhood or would cause a fundamental change in the characteristics of the neighborhood, the conditional use permit shall be denied. If the proposed use is found to be compatible and in harmony with the neighborhood, the commission shall proceed to review and consider the application and grant or deny it pursuant to the additional considerations set forth in the zoning

and planning ordinance.

Section 804 Findings and Conditions :

The County Planning and Zoning Commission may grant a Conditional Use permit in compliance with this Ordinance if, from the application and the facts presented, it finds:

- (1) The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety or general welfare.
- (2) All County, State and Federal Building Codes are fully complied with.
- (3) The proposed use will be located and conducted in compliance with the purposes of this Ordinance.
- (4) That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.
- (5) The project or its intended conditional use does not propose any construction on any critical lands.
- (6) The applicant shall bear the burden of proof that the proposed use does not substantially change the character of the neighborhood.

In approving a Conditional Use permit, the County Planning and Zoning Commission shall impose such conditions or restrictions as it deems reasonable and necessary to secure the purposes of the Dutch John General Plan and this Ordinance to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses in the general vicinity. These conditions may include:

- (1) That the site will be suitably landscaped and maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect property and preserve and/or enhance the appearance and character of the area.
- (2) That all buildings or other structures are designed to add to the quality of the area.
- (3) Provision of parking facilities, including vehicular ingress and egress, loading and unloading areas and the surfacing of parking areas and driveways to specified standards.
- (4) The provision of required street and highway dedication and improvements and adequate water supply, sewage disposal and fire protection.
- (5) The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.
- (6) The regulation of operating hours for activities affecting normal schedules and functions.

- (7) Regulation of signs.
- (8) Identifying a time for regular review and monitoring as determined necessary by the County Commission to ensure the use continues to operate in compliance with all conditions and requirements of approval.
- (9) Such other conditions determined necessary by the County Planning and Zoning Commission to allow the establishment and operation of the proposed Conditional Use in an orderly and efficient manner and in compliance with all elements of the Dutch John Plan and the intent and purposes of this Ordinance.
- (10) The Conditional Use permit will be good for a maximum time of 2 years at which time the owner may reapply if the permit was not revoked, or suspended.

Section 805 Revocation or Modification of a Conditional Use Permit :

If there is cause to believe that grounds exist for revocation or modification of an approved Conditional Use permit, the Daggett County Planning and Zoning Commission shall hold a public hearing on the question of modification or revocation of a Conditional Use permit granted under the terms and the provisions of this Ordinance.

A Conditional Use permit may be modified or revoked if the County Planning and Zoning Commission finds that one or more of the following conditions exist:

- (1) The Conditional Use permit was obtained in a fraudulent manner.
- (2) The use for which the Conditional Use permit was granted has ceased for at least six (6) consecutive calendar months.
- (3) One or more of the conditions of the Conditional Use permit have not been met.

Additionally, the conditions under which a Conditional Use permit was originally approved may be modified by the County Planning and Zoning Commission without the consent of the property owner or operator, if the County Planning and Zoning Commission finds that the use or related development constitutes or is creating a demonstrated nuisance.

Section 806 Procedure and hearings for application for conditional use permits or revocation or modification of a conditional use permit:

Whenever a public hearing is held concerning the issuance of a conditional use permit or the modification or revocation of a conditional use permit, the planning and zoning commission, in consultation with legal counsel, shall establish a procedure to be followed to allow the orderly conduct of the hearing and the full consideration and presentation of the information necessary to allow the board to make its informed decision. The procedure shall be communicated to all interested parties in advance of the hearing. Unless other procedures are adopted, the following procedures shall be used.

- (1) A chairman shall be selected for the meeting who shall be responsible to maintain order and decorum throughout the course of the hearing.
- (2) Chairman of the meeting shall call the meeting to order and advise the persons in attendance of

the procedures to be followed and of the matter under consideration.

- (3) Each interested party shall be allowed a brief opening statement to summarize its position.
- (4) The party having the burden of proof shall present to the board facts and information, along with input of interested persons and opinions from experts having information helpful to the board and relevant to the matter before the board. At the discretion of the board, persons presenting factual testimony or experts presenting opinion testimony, may be placed under oath and subject to reasonable cross examination.
- (5) Following conclusion of the presentation of evidence and opinion by the party having the burden of proof, the responding party or parties shall proceed in like manner to present facts, testimony and other evidence which is material and relevant to the issue to be decided by the board.
- (6) Witnesses who are asserting facts or experts presenting opinion testimony may be placed under oath and made subject to cross examination.
- (7) Generally, persons presenting general public comment or input such as property owners expressing support or opposition to the proposed use in the form of opinions or personal assessments as to the benefits or detriments of the proposed use will not be placed under oath or subject to cross examination. Those who assert specific facts which may be in dispute, may be subject to being placed under oath and cross examined.
- (8) The party bearing the burden of proof shall then be allowed a brief opportunity for rebuttal followed by a rebuttal from the party not having the burden of proof, if new facts or information are presented during the rebuttal.
- (9) Each party shall then be allowed an opportunity for a summation or closing statement as follows: The party with the burden of proof, followed by the responding party, followed by the party with the burden of proof.
- (10) The board may also allow other concerned citizens or members of the public who have not previously testified to present public input or matters of concern that should be considered by the board in making its decision.
- (11) The board may consider relevant and reliable written materials. Following the close of the public hearing, the board may deliberate and make its decision or may refer the issues or matters of concern to appropriate parties for further study or investigation.
- (12) After deliberation and consideration of all of the input and relevant facts and information, the board shall render a decision and shall set forth the facts and law supporting its decision.
- (13) A detailed record or recording of the hearing shall be made and maintained by the planning and zoning board.
- (14) The board shall at all times maintain order at the hearing and may order the removal of persons or parties that are disruptive of the deliberative process.
- (15) The hearing should be conducted in a manner so as to provide fair opportunity for interested parties and persons to present input and evidence and information to the board and to assure that

information considered or relied upon by the board is reasonably reliable. It is not necessary that strict adherence to the judicial rules of evidence or rules of procedure be followed. The board may establish reasonable time limits for each of the phases of the hearing as set forth above and may limit or prohibit unduly lengthy or repetitive information and may forbid presentation of information, opinions or matters which are relevant or material to the issue to be decided.

- (16) Any party aggrieved of the decision of the planning and zoning board may, within thirty (30) days of issuance of the written decision, file an appeal in writing with the County Commission. The written notice of appeal shall be delivered to the county clerk and shall state in reasonable detail and specificity the areas with which the appellant disagrees with the decision of the planning and zoning board and at least a summary of information supporting the disagreement with the planning and zoning board's decision.
- (17) The County Commission shall obtain the record of the proceeding from the Planning and Zoning Commission and may schedule an additional public hearing or may consider the appeal based upon the record and evidence obtained from the Planning and Zoning Commission. Any deliberation or consideration of the appeal shall comply with the Utah Open and Public Meetings Law.

Section 807 Short-term Residential Rental Unit as a Conditional Use:

It shall be unlawful for any person to rent for less than thirty (30) days a residence without possessing and maintaining a Conditional Use Permit as required by this ordinance. For this Ordinance, the word Permit means the same as Conditional Use Permit. Only the owner(s), as defined in this ordinance, shall be allowed to hold a Permit. A residence providing short-term rentals, when allowed as a Conditional Use, shall be approved only in accordance with Chapter 8 of this Ordinance, and the conditions for this use as stated below:

General Provisions:

- (1) The short-term rental of residential property in Dutch John shall be allowed for an indefinite ~~limited~~ period of time. ~~This use will be allowed starting October 31, 2005 and will continue through December 31, 2009??2014.~~
- (2) Permits will only be issued to a point where no more than 10% of the residential properties in Dutch John are available for short-term rental. This includes government housing currently being rented to government workers, families and contractors on a nightly, weekly or other basis for less than one month.
- (3) Conditional Use permits shall only be issued to the owner(s) of the property.
- (4) All conditional use permits issued for the short-term residential rental unit shall be good for one year from the date of issue and must be renewed annually.
- (5) Each owner and his agent renting or leasing a short-term residential rental unit shall maintain that unit in a condition fit for human habitation and in accordance with this ordinance and the rules of the Tri-County Health Department. Each short-term residential rental unit shall have electrical systems, heating, plumbing, and hot and cold water.
- (6) No alcoholic beverages shall be sold on the premises.

Dutch John Zoning Regulation

- (7) No receptions, banquets, or catering shall be permitted other than for registered lodgers.
- (8) No signs shall be permitted on the premises that advertise the use.
- (9) Renters of short-term residential rental units shall not create excessive noise that is incompatible with adjacent land uses.
- (10) Each short-term residential rental unit owner shall keep a register of guests. Such registration or list shall include the names and addresses of all guests and be available for inspection by the ~~license official~~ building inspector at any time.

Application Requirements:

- (1) The Application for a Conditional Use Permit and the Addendum for Short-term Rental of Residential Property must be filled out completely and all required fees paid before the application will be considered.
- (2) The Conditions for Approval will be questioned on the Addendum portion of the application and must be met in order to be considered for a Conditional Use Permit.
- (3) An annual ~~application for~~ inspection of the property by the Building Inspector shall be a part of this application. Said inspection must be completed before the application can be considered.

Conditions For Approval

- (1) The supervision, maintenance and trouble shooting of the short-term rental business shall be provided by the owner as defined herein and shall be available on a 24-hour per day basis. One nameplate sign not to exceed three inches by five inches made of durable weather-resistant material containing the name and telephone number of the owner, as defined herein, who can be contacted 24 hours a day shall be permanently and conspicuously attached to the building near the front entrance. Such nameplate shall not contain any advertising.
- (2) Required parking areas and access to parking areas shall be maintained and available for use at all times. Parking for this use shall be contained on the site, and shall not be allowed on the public rights-of-way; and snow shall be removed as outlined in state and local codes.
- (3) There shall be no separate or additional kitchen facility for the guests and no cooking facilities shall be allowed in guest rooms.
- (4) A County business license shall be obtained promptly upon approval of the Conditional Use Permit. Transient Room taxes must be collected and remitted to the proper authority.
- (5) No guest rooms shall be located in the basement.
- (6) No more than three (3) occupants per room shall be allowed, and total occupants of the dwelling cannot exceed the number allowed by the Uniform Building Code.
- (7) A fire escape plan shall be developed and graphically displayed in each guest room.

- (8) A notification to guests shall be prepared and shall contain the residence rules and the fact that the residence is being rented under a Conditional Use Permit that may be revoked if guest actions lead to complaints from neighbors of the residence.
- (9) Notice. Upon receipt of a completed Short-term Residential Rental Unit conditional use permit application, the County Clerk shall notify all persons to whom real property is assessed within three hundred (300) feet of the proposed short-term residential rental unit location.

Conditions for Conditional Use Permit Renewal:

- (1) A copy of the current County business license shall be included with the conditional use permit renewal application.
- (2) Sales taxes and Transient Room taxes must have been collected and remitted in a timely manner to the proper authorities.
- (3) Documented complaints must be minimal and must have been successfully addressed by the owner in a timely manner. Original complaints should be reported and or documented to the owner at the time of violation using the County form available on the internet. A copy must be submitted to the County within 30 days by the owner. In the case of complaint involving immediate health or safety concerns, 911 should be called before contacting the owner. Recurring and or unsatisfied complaints could instigate an investigation.
- (4) Owner must provide a copy of the list of rental dates, renters and their addresses.
- (5) Applications for renewal must be submitted 2 months prior to expiration. No property shall be rented on a short-term basis without a current conditional use permit.
- (6) Annual Inspection. The short-term residential rental unit shall meet all conditions of this ordinance and other applicable ordinances and laws. There shall be an annual inspection of the premises by the County Building Inspector.
- (7) Lapse of Operation. The active operation of the short-term residential rental unit shall not have lapsed for more than nine (9) consecutive months.

Revocation or Modification of a Conditional Use Permit:

If there is cause to believe that grounds exist for revocation or modification of an approved Conditional Use Permit, the Planning Commission shall hold a public hearing on the question of modification or revocation of a Conditional Use Permit granted under the terms and the provisions of this Ordinance.

A Conditional Use Permit may be modified or revoked if the Planning Commission finds that one or more of the following conditions exist:

- (1) The Conditional Use Permit was obtained in a fraudulent manner.
- (2) The use which the Conditional Use Permit was granted has now ceased for at least nine (9) consecutive calendar months.
- (3) One or more of the conditions of the Conditional Use Permit have not been met.

Additionally, the County Commission without the consent of the owner may modify the conditions under which a Conditional Use Permit was originally approved, if the County Commission finds that the use or related development constitutes or is creating a demonstrated nuisance.

From Pages 48-49

**CHAPTER 10
GENERAL REQUIREMENTS AND PROPERTY DEVELOPMENT STANDARDS**

Section 1023 Location of Travel Trailers, Recreational Vehicles, Boats, Camping Trailers, Truck Campers and Motor Homes :

Unless permitted as a use allowed by the zoning district as identified in the Table of Uses, the location or storage of travel trailers and mobile homes outside of mobile home parks, travel trailer parks and campgrounds, and the location or storage of recreational vehicles, boats, camping trailers and truck campers shall be subject to the following:

- (A) At no time shall the mobile home, travel trailer, recreational vehicle, boat, camping trailer, truck camper or motor home be continuously occupied or used for living or sleeping purposes.
- (B) If a travel trailer, recreational vehicle, boat, camping trailer, truck camper or motor home is located or stored outside of a garage or carport, it shall be placed in the rear or side yard of the lot, except that placement in other than the rear yard for loading and unloading purposes may be permitted for a period of time not to exceed seventy-two (72) hours.

Section 8081027 Bed and Breakfast Inn as a Conditional Use:

A Bed and Breakfast Inn, when allowed as a Conditional Use, shall be approved only in accordance with this Ordinance and the following:

- (1) The lot shall have at least eighty (80) feet of frontage on a dedicated street.
- (2) One (1) off-street parking space shall be provided per employee plus one (1) space per guest room. On-street curbside parking may be used to satisfy this requirement at the rate of two (2) spaces per fifty (50) feet of lot frontage.
- (3) Meals may be served to residents, employees, overnight lodgers, and guests of overnight lodgers only. No cooking facilities shall be allowed in guest rooms.
- (4) Such use shall conform to all applicable health, safety, and building codes and must be capable of such use without structural or site alteration which changes the residential character of the structure and yards.
- (5) No alcoholic beverages shall be sold on the premises.
- (6) No receptions, banquets, or catering shall be permitted other than for registered lodgers.

- (7) No long-term rental of rooms shall be permitted. The maximum stay for lodgers shall be thirty (30) days.
- (8) A county business license shall be obtained as a condition of approval.
- (9) Supervision by an on-site manager or owner shall be required on a 24-hour per day basis.
- (10) Care shall be taken to insure that no exterior lighting shines directly into adjoining properties.

Section 10278 Landscaping

Front yard and side yard landscaping for any lot with a dwelling or business must be completed within 12 months of the issuance of the occupancy permit. Rear yard landscaping must be completed within 24 months following the issuance of the occupancy permit.

Landscaping may be required for privacy, visual screening, sound deadening, and appearance enhancement for the purpose of insuring compatibility of the proposed uses with that of existing and anticipated future uses in the vicinity. Undeveloped and/or unused portions of properties shall either be landscaped, or have other means of weed and erosion control established.

Planting shall comply with clear-vision requirements at all intersections and access locations onto public roads.

From Pages 67-75

**CHAPTER 20
DEFINITIONS**

Definitions. For the purpose of this Ordinance, certain words are hereby defined as follows:

- (1) (28)Guest: Any transient person who occupies a room for sleeping purposes.
- (2) (61)Rental Agreement: Any agreement, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions regarding the use and occupancy of an ~~overnight~~ residential rental unit for any period less than or greater than 30 days.
- (3) (62)Renter: Means any person entitled under a rental agreement to occupy an ~~overnight~~ residential rental unit to the exclusion of others.
- (4) (66)Short-term Residential Rental Unit: Residence that is rented for ~~Means a renter's~~, less than thirty days, ~~place of residence~~ and includes the appurtenances, grounds, and facilities held out for the use of the residential renter generally, and any other area or facility provided to the renter in the rental agreement. Only allowed after obtaining a conditional use permit and business license.
- (80) Travel Trailer: A mobile home not exceeding eight (8) feet in width nor thirty-three (33) feet in length.