

**ORDINANCE NO. 192**

**AMENDMENTS TO TITLE FIVE OF THE DALTON GARDENS MUNICIPAL CODE**

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, TO CLARIFY THE DEFINITION AND STANDARDS FOR FENCES, PROVIDE FOR AN EFFECTIVE DATE AND SEVERABILITY.

BE IT ORDAINED by the Mayor and City Council of Dalton Gardens, Idaho:

- Section 1: Title
- Section 2: Authority
- Section 3: Purpose
- Section 4: Title 5 Amendments
- Section 5: Severability
- Section 6: Conflicting Ordinance Provisions
- Section 7: Effective Date

**SECTION 1: TITLE**

This Ordinance shall be known as the FENCE AMENDMENTS TO TITLE 5 OF THE DALTON GARDENS MUNICIPAL CODE.

**SECTION 2: AUTHORITY**

This Ordinance is authorized under the provisions of Idaho Code Title 67 Sections 6509, 6511, and 65-12.

**SECTION 3: PURPOSE:** The purpose and intent of a Fence Ordinance is to insure safe sight lines and to minimize the potential negative visual impact or hazards of high or unsightly fences, walls and/or retaining walls.

**SECTION 4: AMENDMENTS:**

CHAPTER 1

GENERAL ZONING PROVISIONS

SECTION:

- 5-1-1: Title
- 5-1-2: Authority
- 5-1-3: Interpretation and Application
- 5-1-4: Definitions
- 5-1-5: Setback Requirements

5-1-1:TITLE: This Title and any amendments and additions thereto shall be hereafter known as the *ZONING ORDINANCE* of the City. (Ord. 105, 1-7-89)

5-1-2: AUTHORITY:

February 1, 2007 Fence Regulations  
Adopted by City Council

This Title is adopted pursuant to authority granted by title 67, chapter 65 of the Idaho Code and article 12, section 2 of the Idaho Constitution. (Ord. 105, 1-7-89)

#### 5-1-3: INTERPRETATION AND APPLICATION:

In their interpretation and application, the provisions of this Title shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this Title 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. (Ord. 105, 1-7-89)

#### 5-1-4: DEFINITIONS:

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

**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.<sup>1</sup>

**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.

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

**FENCE** means a structural device forming a vertical physical barrier.

**FIELD.** a piece of land cleared of trees and usually enclosed.

**FIELD FENCING:** Field fencing for purposes of this ordinance shall be defined as fencing for stock or to prevent wildlife intrusion onto property. Field fencing shall also be defined as fencing that is constructed to provide a clear view of the field (visually unobstructed view) excluding chain link fencing.

**FRONT LOT LINE** For an interior lot, a front lot line is a street line. 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 Title excepted.

**GOVERNING BODY** The City Council of the City of Dalton Gardens.

**INTERIOR LOT** Any zoning lot which is not a corner lot.

**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 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 title.

**LOT SIZE AND 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, and shall contain not less than one acre.

**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.

**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 arranged or designed to be occupied by not more than one family, all members of which are related by blood, adoption or marriage, but excluding tents, trailer coaches, mobile homes or trailer houses.

**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.

**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 COACHES, MOBILE HOMES AND TRAILER HOUSES:** A. A vehicle without means of self-propulsion, licensable as a conveyance on a public street or highway, constructed to permit occupancy as a dwelling or sleeping place for one or more persons; or

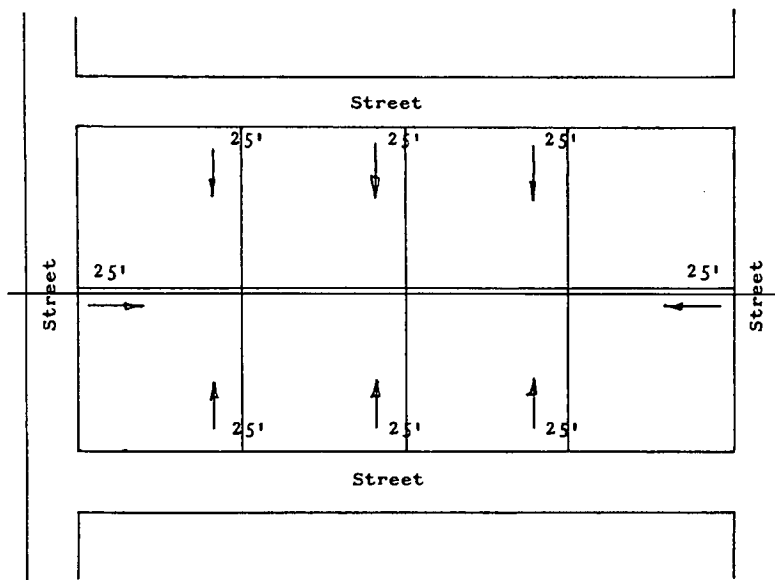
B. A single-family dwelling designed or transported on its wheels or on a flatbed or other trailer or detached wheels and, upon arriving at its site, is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental and assembly operations, located on foundation supports, connected to utilities and the like. (Ord. 105, 1-7-1989; amd. Ord. 107, 3-2-1989; Ord. 161, 9-5-2002)

#### 5-1-5: SETBACK REQUIREMENTS:

No building or structure shall be erected nor any addition made to any existing building or structure so that any portion of such building or structure shall be nearer to the front, side or rear lot line than the distance required by section 5-5-4 of this title, ~~except fences, which may be erected or maintained as follows:~~

~~A. A fence, which does not obstruct visibility, not over thirty six inches (36") in height within twenty five feet (25') from the property line adjacent to a street. (Ord. 105, 1-7-1989)~~

~~B. A fence, other than provided in subsection A of this section, not in excess of seventy two inches (72") in height. (Ord. 105, 1-7-1989; amd. 1991 Code)~~



CHAPTER 5

RESIDENTIAL DISTRICT

SECTION:

- 5-5-1: Use Restrictions
- 5-5-2: Special Uses
- 5-5-3: Minimum Building Site Dimensions
- 5-5-4: Yards
- 5-5-5: Manufactured Homes I2R!

5-5-1: USE RESTRICTIONS:

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:

1. Fences.

A. 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.

B. 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.

C. 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 the municipal code.

D. Height and Setback Standards: Fences shall comply with the following height and setback standards.

1. Fences within twenty five feet (25') of a property line adjacent to a public right of way shall not exceed three feet (3') in height; provided however, that a fence within twenty five feet (25') of a property line adjacent to a public right of way may be up to four feet (4') fifty two inches (52") in height if it is of such design and construction, such as field fencing or chain link fencing, so as not to obstruct views.
2. Fences at least twenty five feet (25') from a property line adjacent to a public right of way may not exceed six feet (6') in height; provided, however, that internal field fencing that is at least twenty five feet (25') from a property line adjacent to a public right of way may be up to eight feet (8') in height if it is of such design and construction so as not to obstruct views.
3. No fence, tree, shrub or growing plant or other landscape feature shall obstruct or interfere with the vision of a 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 intersection if it exceeds 36" inches in height and is within twenty-five feet in any direction of the intersection. Height will be measured at the level of the street.
4. Fences, trees shrubs and growing plants of a height in excess of thirty six inches from the level of a driveway and within ten feet in any direction from the property lines of said property which in any manner obstruct or interfere with the vision of a roadway at the point of driveway access shall be prohibited.
5. Trees to be Trimmed. All trees located within twenty five (25') of the property lines of any property at an intersection of one or more public streets within the City and within ten feet (10") feet of the point of access of a driveway shall have all foliage, including leaves and branches, trimmed to a point eight feet above the level of the street under or near said trees.

E. Permit and Fees Required: No Person shall install a fence (except for internal field fencing) in the City without first obtaining a Fence Permit and complying in all respects with the terms and conditions of the permit and of this Ordinance. 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. Home gardens and gardening of vacant land.

3. 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, for the purpose of this Title, is not an agricultural purpose.

4. Single-family dwellings.

5. The usual accessory buildings commonly appurtenant to a single-family dwelling.

6. Trailer houses and tandem trailers not used for human occupancy. (Ord. 105, 1-7-1989, 175, 8-4-2005)

#### 5-5-2: SPECIAL USES:

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

Churches, schools and Municipal or governmental buildings.

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.

Fire, police or public safety buildings.

Public utility structures such as substations, pumping plants, telephone exchanges and

similar uses.

Signs:

A. Not more than one sign, not exceeding one square foot in area, bearing only the name or occupation of the occupant of the building to which it is affixed.

B. Not more than two (2) signs, not exceeding three (3) square feet in area of each sign, advertising for sale or rent the premises on which they are located. (Ord. 105, 1-7-1989; Ord. 107, 3-2-1989; 1991 Code, Ord. 175-8-4-2005)

5-5-3: MINIMUM BUILDING SITE DIMENSIONS:

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<sup>1</sup>. (Ord. 175, 8-4-2005)

5-5-4: YARDS:

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 ten feet (10') in depth; accessory buildings within seventy five feet (75') from the street line shall have a side yard ten feet (10') in depth; provided, however, that an accessory building more than seventy five feet (75') from the street line shall have a side yard of 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. (Ord. 105, 1-7-1989)

C. Lot Size And 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, and shall contain not less than one acre. (Ord. 175, 8-4-2005)

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(14).



C. Manufactured homes on individual lots for single-family residential uses shall meet the following criteria:

1. The manufactured home shall be multisectional 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 home is located not more than twelve inches (12") above grade;
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. (Ord. 1-1997, 1-2-1997)

#### **SECTION 7: SEVERABILITY**

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.

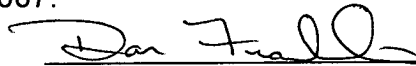
#### **SECTION 8: CONFLICTING ORDINANCE PROVISIONS**

If any conflict occurs between this Ordinance and provisions of the other City Ordinances, the more restrictive Ordinance shall take precedence.

#### **SECTION 9: EFFECTIVE DATE**

This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the Coeur d'Alene Press.

ADOPTED this 1<sup>st</sup> day of February, 2007.

  
\_\_\_\_\_  
Dan Franklin, Mayor

ATTEST:

  
\_\_\_\_\_  
Marcia Wingfield, City Clerk

**SUMMARY OF  
CITY OF DALTON  
GARDENS, IDAHO  
ORDINANCE NO. 192**  
AN ORDINANCE OF DALTON  
GARDENS, IDAHO, A POLITI-  
CAL SUBDIVISION OF THE  
STATE OF IDAHO, TO CLAR-  
IFY THE DEFINITION AND  
STANDARDS FOR FENCES,  
PROVIDE FOR AN EFFEC-  
TIVE DATE AND SEVERABIL-  
ITY.

In accordance with Idaho  
Code §50-901A, the following  
is a Summary of Ordinance 192  
of the City of Dalton Gardens,  
Idaho:

1. Ordinance 192 is an ordi-  
nance amending Title 4, Chap-  
ter 1 and Title 5, Chapter 5,  
Portions of the ZONING OR-  
DINANCE of the Dalton Gar-  
dens City Code as they relate to  
fence regulations.
2. Ordinance 192 shall be known  
as the FENCE ORDINANCE.
3. The Ordinance adds defini-  
tions for "fence", "field", and  
"filed fencing" to Title 5-1-4  
(Definitions) of the Dalton Gar-  
dens City Code, and deletes Ti-  
tle 5-1-5A. and 5-1-5B. (Setback  
Requirements) as the same per-  
tains to fences within the City.
4. The ordinance further adds  
Sections 1A., 1B., 1C., 1D.,  
1D2., 1D3., 1D4., 1D5., and 1E.  
to Title 5, Section 5-1 (USE  
RESTRICTIONS) setting forth  
standards for materials, mea-  
surements, height and setback  
requirements, and fencing  
around swimming pools. The  
ordinance provides for the  
method of obtaining a permit  
and establishes fee require-  
ments for building, replace-  
ment, maintenance and repair  
of new and existing fencing.
5. The Ordinance takes effect  
upon publication of this Sum-  
mary in the Coeur' D'Alene  
Press.
6. The full text of Ordinance  
192 is available at the Dalton  
Gardens City Hall.  
DATED this 1st day of March,  
2007.

Dan Franklin, Mayor  
ATTEST:

Marcia Wingfield, Clerk

Legal 754  
March 6, 2007

# AFFIDAVIT OF PUBLICATION

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

Heather Buys being first duly sworn  
upon oath deposes and says:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

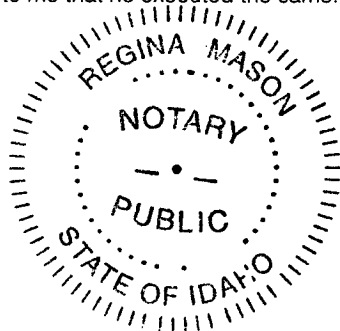
3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Tuesday  
issue of said newspaper for 1 consecutive week  
commencing on the 1<sup>st</sup> day of March, 2007, and  
ending on the 1<sup>st</sup> day of March, 2007, and such  
publication was made as often during said period as said daily  
newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice. Heather Buys  
On this 1<sup>st</sup> day of March in the year of 2007, before me,  
a Notary Public, personally appeared Heather Buys,  
known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Regina Mason  
Notary Public for the State of Idaho,  
residing at Coeur d'Alene, Idaho.

MY COMMISSION EXPIRES 6/18/09



**DOLAN & JACOBSEN**  
ATTORNEYS AT LAW  
LIBERTY BUILDING  
118 N. 7TH ST. - P.O. BOX 1116  
COEUR D'ALENE, IDAHO 83816-1116

February 14, 2007

Marcia Wingfield  
Dalton Gardens City Clerk  
6360 N.4th Street  
Dalton Gardens, ID 83815


RE: Ordinance 192

Dear Marcia:

The enclosed summary of Ordinance 192 is true and complete and, upon publication in the official newspaper designated by the City of Dalton Gardens, provides adequate notice to the public of Dalton Gardens Ordinance No. 192.

This letter shall be filed with the Ordinance in the records of Dalton Gardens, Idaho.

Very truly yours,

  
Kenneth T. Jacobsen  
City Attorney

KTJ:rs  
Enclosure