

**ORDINANCE NUMBER 202
AMENDMENTS TO MUNICIPAL CODE
FENCES**

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE 5 CHAPTER SECTION 5 SUBSECTION 1 FOR USE RESTRICTIONS, PROVIDING STANDARDS FOR FENCES AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1: AMENDMENTS: Those sections entitle Title 5 Chapter 5 of the Dalton Gardens Municipal Code shall be and the same are amended as follows:

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:

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 this code.

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

1. **Fences Within Twenty Five Feet Of Property Line Adjacent To Public Right Of Way:**

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 fifty two inches (52") in height if it is of such design and construction, such as field fencing, so as not to obstruct views.

2. Fences Twenty Five Feet From Property Line Adjacent To Public Right Of Way: 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 and provided further that, for purposes of wildlife deterrence, fencing on a perimeter property line 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 field fencing design and construction, so as not to obstruct views.

3. Obstruction Or Interference: 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 thirty six inches (36") in height and is within twenty five feet (25') in any direction of the intersection. Height will be measured at the level of the street.

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

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 chapter. 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.

SECTION 2: 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.

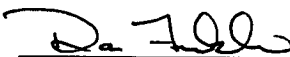
SECTION 3: CONFLICTING ORDINANCE PROVISIONS

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

SECTION 4: 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 2nd day of April, 2009.



Dan Franklin, Mayor,

ATTEST:



Marcia Wingfield, City Clerk.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Kattie Hay

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

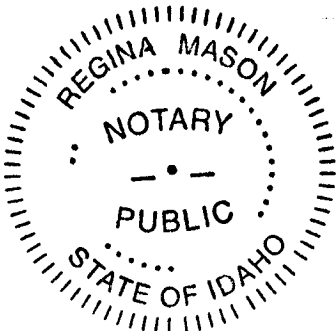
of which the annexed is a printed copy, was published in the regular *Wednesday* issue of said newspaper for *one* consecutive *days* commencing on the *8* day of *April*, 20*09*, and ending on the *8* day of *April*, 20*09*, and such publication was made as often during said period as said *Daily* newspaper 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.

On this *8* day of *April* in the year of *2009*, before me, a Notary Public, personally appeared *Kattie Hay*, 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