

**TITLE 6, CHAPTER 5 ADMINISTRATION AND ENFORCEMENT**

**ORDINANCE NUMBER 230**

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING TITLE 6 CHAPTER 5, AMENDING ADMINISTRATION AND ENFORCEMENT REQUIREMENTS, RECORDATION OF PLATS, REVISIONS OF PLAT AFTER APPROVAL, VARIANCES, FEES AND PROVIDING FOR PENALTIES, SEVERABILITY AND AN EFFECTIVE DATE.

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

**SECTION 1:** Title 6, Chapter 5 of the Dalton Gardens Municipal Code is hereby amended:

Chapter 5  
ADMINISTRATION AND ENFORCEMENT

- 6-5-1: ADMINISTRATION OF PROVISIONS:
- 6-5-2: REQUIRED APPROVAL AND RECORDATION OF PLATS:
- 6-5-3: REVISION OF PLAT AFTER APPROVAL:
- 6-5-4: VARIANCES:
- 6-5-5: FEES:
- 6-5-6: VIOLATION AND PENALTY:

6-5-1: ADMINISTRATION OF PROVISIONS:

This Title shall be administered by the Mayor and Council. (Ord. 145, 5-7-1998)

6-5-2: REQUIRED APPROVAL AND RECORDATION OF PLATS:

A. Approval Prior To Recordation: No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it shall have been approved as provided in this Title. In the event any such unapproved plat is recorded, it shall be considered invalid, and the City Council shall institute proceedings to have the plat stricken from the records of Kootenai County, Idaho.

B. Sale Of Land In Subdivisions: No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, exhibition of or by the use of a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed by this Title. Any sale or transfer contrary to the provisions of this Title is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of this Title.

C. Building Permits: The building inspector shall not issue building or repair permits for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed herein.

D. Public Improvements: The City hereby defines its policy to be that the City will withhold all public improvements of whatsoever nature, including the maintenance of streets and the furnishing of sewerage facilities and water service, from all subdivisions which have not been approved and from all areas dedicated to the public which have not been accepted by the City Council in the manner prescribed herein. (Ord. 145, 5-7-1998)

#### 6-5-3: REVISION OF PLAT AFTER APPROVAL:

No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the City Council and endorsed, in writing, on the plat, unless the said plat is first resubmitted to the City Council. (Ord. 145, 5-7-1998)

#### 6-5-4: VARIANCES:

A. Generally: The City Council may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the City Council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds:

1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Title would deprive the applicant of the reasonable use of his land.
2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

B. Complete Neighborhood: The City Council may authorize a variance from these regulations in case of a plan for a complete community or neighborhood which, in the judgment of the City Council, provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs. In making its findings, as required herein below, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

The City Council shall find that:

1. The proposed project will constitute a desirable and stable community development.
2. The proposed project will be in harmony with adjacent areas.

C. Application For Variance:

1. Generally: Application for any such variance shall be submitted, in writing, by the subdivider at the time when the preliminary plat is filed for the consideration of the City . The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner.
2. Complete Neighborhood: Application for any such variance shall be made, in writing, by the subdivider at the time when the preliminary plat is filed for the consideration of the City stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the City in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. (Ord. 145, 5-7-1998)

6-5-5: FEES:

A. Preliminary Plat: The subdivider shall pay a filing fee as set by resolution of the City Council.

B. Investigations, Etc.: The subdivider shall pay to the City the actual cost of checking, investigating and pay to the City the costs of other matters required by law and these regulations as set by resolution of the City Council. (Ord. 145, 5-7-1998)

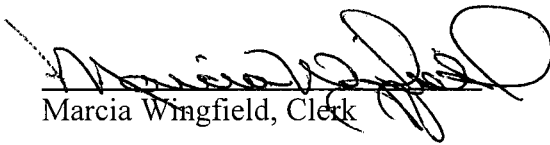
6-5-6: VIOLATION AND PENALTY:

Any person violating any of the provisions of this Title shall be deemed guilty of a misdemeanor and shall be subject to penalties in accordance with Section 1-4-1 of this Code. (Ord. 145, 5-7-1998)

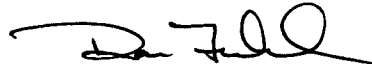
**EFFECTIVE DATE**

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

Dated: November 1, 2012



Marcia Wingfield, Clerk



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Dan Franklin, Mayor

# AFFIDAVIT OF PUBLICATION

SUMMARY OF  
CITY OF DALTON GARDENS,  
IDAHO  
ORDINANCE NO. 230

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

Amber Juel 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.

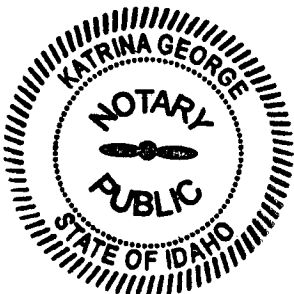
2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press," a newspaper printed and published daily except Sunday in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice

of which the annexed is a printed copy, was published in the regular Wed issue of said newspaper for 1 consecutive week commencing on the 4th day of November, 2012 and ending on the 7th day of November, 2012, 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 Amber Juel. On this 4th day of November in the year of 2012, before me, a Notary Public, personally appeared Amber Juel, 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.

Katrina George  
Notary Public for the State of Idaho,  
residing at Coeur d'Alene, Idaho.



In accordance with Idaho Code §50-901A, the following is a Summary of Ordinance 230 of the City of Dalton Gardens, Idaho:

1. This is an ordinance of Dalton Gardens, Idaho, a political subdivision of the State of Idaho, which amends Title 6 Chapter 5 of the Dalton Gardens municipal code ADMINISTRATION AND ENFORCEMENT of the SUBDIVISION ORDINANCE OF THE CITY OF DALTON GARDENS by deleting the words Council and Engineer.

2. The ordinance also provides for severability and an effective date.

3. This Ordinance was passed on November 1, 2012.

4. The Ordinance takes effect upon publication of this Summary in the Coeur d'Alene Press.

5. The full text of Ordinance 230 is available at the Dalton Gardens City Hall.

DATED this 1st day of November, 2012.

Daniel Franklin, Mayor

ATTEST:

Marcia Wingfield, Clerk  
Legal 7479  
November 7, 2012

MY COMMISSION EXPIRES 8/29/17

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

November 1, 2012

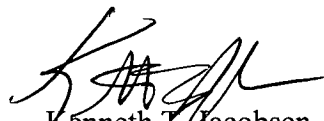
City of Dalton Gardens  
Attn: Marcia Wingfield, City Clerk  
6360 N.4th Street  
Dalton Gardens, ID 83815

RE: Ordinance Nos. 226, 227, 228, 229, 230

Dear Marcia:

Pursuant to Idaho Code § 50-901A, this letter is to certify that the summary of Dalton Gardens Ordinance No. 226, amending Title 6, Chapter 1, Ordinance No. 227, amending Title 6, Chapter 2, Ordinance No. 228, amending Title 6, Chapter 3, Ordinance No. 229, amending Title 6, Chapter 4 and Ordinance No. 230, amending Title 6, Chapter 5 are true and complete and provide adequate notice to the Public of the contents of said Ordinances.

Very truly yours,

  
Kenneth T. Jacobsen  
City Attorney

KTJ/rs