

SITE DISTURBANCE ORDINANCE NO 160

AN ORDINANCE OF DALTON GARDENS, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ESTABLISHING REQUIREMENTS FOR GRADING OF LAND, EROSION AND SEDIMENTATION CONTROL, AND STORM WATER MANAGEMENT.

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

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SECTION 1: TITLE

This Ordinance shall be known as the SITE DISTURBANCE ORDINANCE of Dalton Gardens.

SECTION 2: AUTHORITY

This Ordinance is authorized under the provisions of Idaho Code Section 67-6518.

SECTION 3: PURPOSE

The purpose of this Ordinance shall be to protect property, surface water, and ground water against significant adverse effects from excavation, filling, clearing, unstable earthworks, soil erosion, sedimentation, and storm water runoff, and to provide maximum safety in the development and design of building sites, roads, and other service amenities.

SECTION 4: DEFINITIONS

Administrator - An official appointed by the Mayor and City Council to administer provisions of this Ordinance. This official may be a contract professional such as a licensed engineer.

Best Management Practices (BMPs) - Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water and erosion of soils. The City shall utilize by reference the Department of Environmental Quality Manual entitled "Catalog of Storm Water Best Management Practices for Idaho Cities and Counties." All site disturbance permit applications shall use this BMP manual.

Buffer Strip - A vegetated area that slows storm water runoff and provides filtration. The effectiveness of buffer strips is determined by several factors that include soil type, slope, width and vegetation type. Typically storm water must enter the buffer strip as sheet flow for the buffer to provide any significant treatment.

Clean Water Act (CWA) - This is the water quality program passed by Congress in 1987.

Clearing - The destruction and removal of vegetation by manual, mechanical, or chemical methods.

Construction Operator - A construction operator is the party responsible for the operational control of erosion and sediment control on site. It is usually the developer or landowner, but may be the contractor or another party.

Conveyance - A mechanism for transporting water from one point to another, including pipes, ditches, and channels.

Cut - To excavate into a hillside to create a flat area, or to steepen or flatten a bank.

Design Professional - A licensed professional engineer, landscape architect, or geologist, registered for their respective profession by the State of Idaho.

Detention - The temporary storage of storm runoff, used to control the peak discharge rates and provide gravity settling of pollutants.

Drainage Course - Lowest elevation of the surrounding topography on a parcel.

Driveway - For purposes of managing and treating storm water, a driveway shall be a means of vehicular access from a public or private road to a point within an individual lot.

Easement - A legal encumbrance placed against a property's title for maintenance access or to reserve other specified privileges for the users and beneficiaries of the drainage facilities contained within the boundaries of the easement.

Environmental Protection Agency (EPA) - This is the U.S. Environmental Protection Agency. EPA Region 10 is the NPDES permitting authority for the City of Dalton Gardens.

Erosion - The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Erosion and Sedimentation Control - Those Best Management Practices (BMPs) which are employed to prevent or reduce erosion or sedimentation and are typically necessary when ground disturbance occurs.

Excavate - Any act by which earth, sand, gravel, rock, or other earthen material is cut into, dug, uncovered, displaced, or relocated.

Fill - A solid material which increases the ground surface elevation, or the act of depositing such material by mechanical means.

Flood Control Structure - A man-made feature designed or constructed to reduce damage caused by flood events, including, but not limited to, a dam, dike, channel, levy, or similar device.

General Permit – A permit issued under the NPDES program to cover a certain class or category of storm water discharges.

Grading - Any excavation, filling, or movement of earth for the purposes of changing the shape or topography of the land.

Groundwater - Water in a saturated zone or stratum beneath the land surface or a surface water body.

Guarantee of Financial Surety - A surety bond, cash deposit, escrow account, irrevocable letter of credit, or other means acceptable to or required by the City to guarantee that infrastructure or improvements are completed in compliance with the project's approved plans.

Impervious Surface - Any hard surface area which either prevents or retards the entry of water into the soil mantle, or which causes water to run off the surface in greater quantities or at a greater rate of flow than under those conditions present before development. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, gravel and compacted native surfaces, compacted earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water.

High Water Mark - The line which water impresses on the soil by covering it for sufficient periods to deprive it of vegetation.

National Pollutant Discharge Elimination System (NPDES) - The name of the surface water quality program authorized by Congress as part of the 1987 Clean Water Act (CWA). This is EPA's program to control the discharge of pollutants to waters of the United States.

NPDES Permitting Authority - The U.S. Environmental Protection Authority, Region 10, is the NPDES permitting authority for the City of Dalton Gardens.

Naturally Occurring Drainage Swale - Natural drainage conveyances that provide for the discharge of storm water to Class 1 or Class 2 streams, and have bed and banks which are stable and covered with vegetation.

Notice of Intent (NOI) – The Notice of Intent is the application to notify the permitting authority (EPA – Region 10) of the intent to be covered by a general permit.

Private Road - A means of vehicular access which does not meet the definition of "driveway" and is not maintained by a public highway agency.

Proximity to Surface Water or any feature which conveys water to Surface Water - The distance is measured along the slope from the closest boundary of the proposed disturbance to the surface water feature

Public Highway Agency - The Idaho Transportation Department, Highway District, or other political subdivision of the state with jurisdiction over public highways, public streets, and public rights-of-way.

Public Road – Any public highway or street which has been accepted for maintenance by a Municipality or Public Highway Agency.

Retention - The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Scarify - To break up or loosen the ground surface of an area.

Sediment - Fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits and is transported by, suspended in, or deposited by water.

Sedimentation - The deposition of sediment on ground surfaces or in water courses.

Site - The parcel of land on which grading or excavation activity is conducted. A road right-of-way shall be considered a separate site from adjacent properties.

Slope Measurement - An average measurement across the area to be disturbed, expressed as a percentage.

Spoil Pile - Soil and/or rock excavated from an area which may be used for backfill or final grading on-site.

Stabilized Construction Entrance - A stabilized pad of clean, crushed rock located where traffic enters or leaves a construction site onto a paved public or private road. The pad shall be a minimum of 6 inches thick, with a minimum rock size of 2-3 inches, and a length sufficient to minimize off-site tracking.

Storm Water Control - Those Best Management Practices (BMPs) which are employed to convey, direct, treat, or dissipate storm water and are typically necessary when impervious area is created or the natural drainage is interrupted (see definition of Best Management Practices).

Storm Water Pollution Prevention Plan (SWPPP) – A plan to describe a process whereby a facility thoroughly evaluates potential pollutant sources at a site and selects and implements appropriate measures designed to prevent or control the discharge of pollutants in storm water runoff.

Storm Water Runoff - That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel, or a constructed infiltration facility.

Storm Water System - A BMP or series of BMPs which serve(s) one or more parcels.

Stream - A water course of perceptible extent which confines and conducts continuously or intermittently flowing water. This definition is intended to include streams in natural or man-made channels. This definition is not meant to include dead-end streams which do not support fish or other beneficial uses. A 'dead-end' stream is one which infiltrates into the ground prior to reaching a larger body of water.

Stream, Class 1 - A stream which exhibits a definite bed and banks (a clay, silt, sand, gravel, cobble, boulder, or bedrock stream bottom which results from the scouring action of water flow) and is used for domestic water supply or by fish for spawning, rearing, or migration. Such waters will be considered to be Class 1 upstream from the point of domestic diversion for a minimum distance of 1,320 feet.

Stream, Class 2 - A stream which exhibits a definite bed and banks (a clay, silt, sand, gravel, cobble, boulder, or bedrock stream bottom which results from the scouring action of water flow) and is usually found in headwater areas or minor drainages and is not used by fish. Their principal value lies in their influence on water quality or quantity downstream in Class 1 streams.

Surface Water – For purposes of this ordinance, surface water shall include all lakes, rivers, streams, wetlands, ponds, and similar features, and any feature which acts as a conveyer of water to a surface water feature. Conveyance features may include natural or man-made ditches.

Treatment - Removal of sediment or other pollutants from storm water.

Undisturbed Natural Vegetation Buffer - An area where no development activity has occurred or will occur, including, but not limited to, logging, construction of utility trenches, roads, structures, or surface and storm water facilities. Buffer areas shall be left in their natural state.

SECTION 5: APPLICABILITY

A. **EXEMPTIONS:** The following activities are exempt from the permit requirements of this Ordinance:

1. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay, when approved for operation under applicable State and local regulations;

2. Agricultural practices in common local usage;
3. Activities governed by and subject to the Forest Practices Act;
4. Cemetery graves;
5. Emergency situations involving immediate danger to life or property, substantial fire hazards, or other public safety hazards as subsequently determined by the City, or during the period covered by an emergency declaration by the City;
6. Refuse disposal or landfill operation authorized by permit from the appropriate state and local agencies. Landfill construction shall not be exempt from this Ordinance;
7. In any 12-month period, excavation or placement of fill totaling less than 75 cubic yards in volume, which does not obstruct a stream, drainage course, or surface waters;
8. Private road or driveway maintenance where work is limited to the travel way, no cut or fill slopes are created, and no drainage features are created or modified;
9. Excavation of test holes for soil testing activities, provided that no access road will be created for test hole excavation, and the total excavation is less than 50 cubic yards;
10. Grading, excavating and placement of fill on a site that has less than a 6% slope, and is more than 500 feet from surface water as defined by this ordinance, and that results in a total disturbance of less than one acre, or less than 1/3 (one third) of the parcel, whichever is smaller. This exemption shall not apply to commercial or industrial developments or for subdivision infrastructure development;
11. Grading, excavating, or placement of fill which is subject to the regulations and permitting process of the U.S. Army Corps of Engineers, Idaho Department of Lands, and Idaho Department of Water Resources. Grading activities that are related to such projects, but which are not subject to the aforementioned agencies' regulations, are not exempt.
12. Grading and maintenance of public roadways.

Excavation and grading activities which are exempted from the permit requirement under Items 7 through 12 shall employ reasonable and knowledgeable Best Management Practices to prevent sediment from leaving the site.

- B. Permit Required. Except as exempted under Section 5A, a site disturbance permit shall be required for the following activities:
1. Construction of all new driveways, private or public roads, or infrastructure authorized through the Subdivision, Short Plat, Variance, or Special Use Permit process;

2. Conversion of roads from one use to another (such as a logging road to a private road, private road to a public road, etc.) regardless of the level of improvement required on the road;
3. Excavation for the construction of structures;
4. Creation of a new commercial or industrial access or parking lot, and conversion or paving of an existing access or parking lot for commercial or industrial development;
5. All construction activity resulting in the disturbance of one acre or more;
6. All other excavation, filling, and grading activity, except as specifically exempted under Section 5A.

C. Other Activities.

1. Site disturbing activities conducted by Utility Installers shall be regulated as follows:
 - a. For major installation projects where utility service is regional in nature intending to serve more than one subdivision or intending to upgrade existing service to multiple subdivisions, or commercial or industrial projects, utility installers shall comply with all requirements of this ordinance.
 - b. All other work conducted by utility installers shall use knowledgeable and reasonable Best Management Practices to prevent sediment from leaving the site.

SECTION 6: APPLICATION AND INFORMATION REQUIREMENTS

- A. Applications: All applications for a site disturbance permit shall be submitted to the City on a form provided by the City with a filing fee as set by resolution of the City Council. At a minimum, the following information shall be required:
1. Property owner's name and applicant's name if different from the owner;
 2. Legal description of property including parcel number;
 3. A written description of the work to be done, including an estimate of the amount of earth to be moved;
 4. A site plan, drawn to scale, including property boundaries, buildings, structures, north arrow, adjacent roads, surface water (see definitions), location of proposed work, and distances to property lines or prominent features of the land.

5. A copy of the Storm Water Pollution Prevention Plan (SWPPP) as required by the "NPDES General Permit for Storm Water Discharges Associated with Construction Activity" from the EPA, and a copy of an appropriate "Notice of Intent" (NOI) which has been sent to the EPA. If the project is not required to have an EPA permit, then a notarized affidavit from the construction operator stating why the project is exempt from the requirement for a NPDES Permit may be submitted. The affidavit must be reviewed and accepted by the administrator before a site disturbance permit may be issued.
- B. The required elements of site disturbance plans shall be developed as outlined in the Department of Environmental Quality Best Management Practice and Plan Criteria manual, adopted pursuant to this ordinance.
1. Plans prepared by a design professional shall be required in the following circumstances:
 - a. Site disturbing activities governed by this ordinance on sites with a slope greater than 6%.
 - b. All commercial and industrial development.
 - c. When required under Section 5C of this Ordinance.
 - d. Subdivision infrastructure development.
 2. The Administrator may waive the submission of plans for minor improvements if the standards of this Ordinance can be met by existing site conditions.

SECTION 7: STANDARDS

A. Grading

1. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate to the Administrator substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, re-vegetation, maintenance, and overall water quality impacts. Subsurface drainage shall be provided as necessary for stability. All engineering reports are subject to review by the Administrator.
2. Fill slopes shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate to the Administrator substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, re-vegetation, maintenance, and overall water quality impacts. Fill slopes shall not be constructed on natural slopes of 5:1 or steeper, without special treatment or design. In addition, the toe of fill

slopes shall not be closer to the top of existing or planned downhill cut slopes than the height of that cut (e.g. if an 8-foot cut is planned, the toe of the uphill fill slope shall not be closer than 8 feet to the top of that cut), unless the design professional has demonstrated that comparable stability can be achieved with lesser setbacks.

3. Prior to placement of fill, the ground surface shall be prepared to receive fill by removing vegetation, topsoil, forest duff, and any other unsuitable material. Fill shall not be placed until the area is prepared by constructing a level bench into competent material at the base of the new fill. The Administrator may waive the benching requirement for minor fills which are not intended to support a road, driveway, or structure. In sites with over a six percent slope, the position, width, and configuration of the bench shall be determined by a design professional. Fill slopes and the transition zone into natural terrain shall be configured to a generally smooth, planar configuration so that runoff traverses the area as sheet flow and is not concentrated. Fill material shall be composed of mineral soil that is free of organic material. Roadway fills shall be placed in lifts and compacted to a minimum of 95 percent (95%) of the maximum density as determined by the AASHTO T- 180 or ASTM D-1557 compaction procedure, or as specified in the design professional's report.
4. Except where roads or driveways cross property lines, the tops and toes of cut and fill slopes shall be set back from property boundaries one half of the height of the slope with a minimum of five (5) feet and a maximum of twenty (20) feet, unless the design professional has demonstrated to the Administrator that smaller setbacks provide a sufficient measure of safety and stability for activities which may occur on adjacent property.
5. A Slope stability analysis shall be required on all cut or fill slopes which exceed 8 feet in height. Spacing, width, and drainage requirements of the terrace(s) shall be determined by the design professional.

B. Erosion and Sedimentation Control

1. Erosion and sedimentation control BMPs for all sites must be sufficient to prevent sediment from leaving the site.
2. Stabilized construction entrances and driveways best management practices shall be required for all construction sites to minimize sediment tracking onto roadways. Parking of vehicles shall be restricted to paved or stabilized areas.
3. The erosion and sedimentation control BMPs must be installed or otherwise in effect, and the boundary of the area to be disturbed must be clearly marked, as indicated in the approved plan, prior to any site disturbance.
4. All surfaces where bare soil is exposed during clearing and grading operations, including spoil piles, shall be covered or otherwise protected from erosion.

5. The property owner, construction operator, contractor, and design professional shall be responsible for the design and construction of revised temporary erosion and sedimentation control if application of the approved plan fails. The Applicant shall immediately notify the Administrator of alterations to plans.
6. All cut and fill slopes shall be re-vegetated or otherwise protected from erosion to the greatest extent possible.

C. Storm Water Detention and Conveyance

- 1 Storm water conveyance mechanisms must be sized to convey runoff from a 50-year storm event without causing flooding or other damage to public or private property, the storm water management system, or other improvements. The Administrator may reduce the requirement to a 25 year storm event in areas with less than a 6% slope.
2. Culvert size within public rights-of-way shall be determined by the public highway agency with jurisdiction. All other culvert sizing shall be done by an appropriate design professional.
3. Storm water systems shall provide for sufficient storage volume and detention time to result in no increase in the peak rate of runoff from the site for a 25-year storm.
4. Runoff from impervious and pervious surfaces shall be considered in meeting this requirement.

D. Storm Water Treatment

1. Treatment of the first ½ inch of storm water runoff from all impervious surfaces shall be required prior to discharge of the storm water overland or to ground or surface waters.
2. For development of public or private roads, storm water shall be managed utilizing a combination of storm water treatment and erosion control.
3. For replacement, additions, or alterations to existing site improvements where no storm water system has previously been required, storm water shall be managed utilizing a combination of storm water treatment and erosion control BMPs to produce no net increase in the pollutant export from the site's previously existing conditions. For additions or alterations to existing improvements on a site with a previously approved and implemented storm water system, the storm water treatment level shall be based on the total impervious area on the site.
4. For existing legal lots of record with extreme site constraints for storm water treatment, the construction operator may request a variance from the treatment requirements outlined above. Variance requests shall be heard by the Planning Commission as outlined in Section 10D of this

Ordinance. A design professional must demonstrate why the treatment standards of this Section cannot be achieved and must outline the BMPs which will be implemented for storm water treatment, including their anticipated treatment efficiencies. A letter of comment from the Department of Environmental Quality regarding the proposed treatment standards may be required by the Administrator.

The storm water management plans must show that the proposed BMPs are anticipated to meet or exceed the treatment efficiencies listed above. Expected treatment efficiencies shall be included as specified in the Department of Environmental Quality's Best Management Practices manual. The development of the BMP list and required range of removal effectiveness is not intended to limit the use of new or innovative treatment procedures that may be developed through the creativity of the design professional preparing the storm water management plan. New approaches and procedures will be considered for approval with the submission of appropriate support data that confirms the effectiveness of the proposed new treatment method, its use related to site constraints, and the maintenance burden it will produce if adopted and utilized.

E. Groundwater and Springs

Springs and other groundwater sources that are encountered during grading or excavation activity shall be returned to subsurface flow where possible or conveyed through the site by an appropriate means of conveyance that shall be non-erosive, avoids sediment transport, and dissipates energy, in accordance with the Best Management Practices guidelines. The construction operator must ensure that the groundwater will not interfere with the implementation or function of the planned storm water or erosion control improvements.

SECTION 8: DISTURBANCE RESTRICTIONS

A. Stream Protection Zones During and after construction operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition possible to maintain water quality and aquatic habitat.

1. Protection Zone Dimensions:

- a. Class 1 Stream Protection Zone - The area encompassed by a slope distance of 75 feet on each side of the high water marks.
- b. Class 2 Stream Protection Zone - The area encompassed by a minimum slope distance of 30 feet on each side of the high water marks of a Class 2 stream.
- c. Naturally Occurring Drainage Swale Protection Zone - The area encompassed by a minimum slope distance of 5 feet on each side of the top of a naturally occurring drainage swale. In no case shall this protection zone have a total width greater than 30 feet.

- d. For lots legally created prior to the effective date of this Ordinance, the width of any protection zone may be reduced to be no greater than 40% of the dimension of the lot perpendicular to the stream or water body.

2. Protection Zone Restrictions:

- a. No mechanical ground disturbance shall be permitted within the protection zone except at identified and permitted crossings. When disturbance is necessary, across or inside a Protection Zone, it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. The extent of such disturbance shall be clearly indicated in the approved plans.

- b. When streams must be crossed, adequate structures to carry stream flow shall be installed. Crossings and their approaches shall be at right angles to the channel or otherwise configured to minimize the disturbance within the Protection Zone. (Construction of hydraulic structures in stream channels is regulated by the Stream Protection Act - Title 42, Chapter 38, Idaho Code.) All temporary crossings shall be removed immediately after use.

- c. Large organic debris (LOD), shading, wildlife cover, and water filtering effects of vegetation shall be maintained along streams as outlined in the Idaho Forest Practices Act.

- d. Existing site improvements which lie within a stream protection zone may be replaced, altered, or enlarged, provided no addition or alteration encroaches farther into the protection zone than the existing improvements, site disturbing activity is minimized to the extent possible, and all other requirements of this Ordinance are met.

- e. For site disturbing activity not exempted under Section 5.A.11, the administrator may allow work within stream protection zones during periods of low flow, in accordance with all other requirements of this ordinance. Prior to authorizing such work, the administrator shall consult with the Idaho Department of Fish and Game, or other agency(s) as appropriate, to determine whether the timing or nature of the project will have an adverse impact on the environment.

SECTION 9: HAZARDS

Whenever the Administrator determines that an existing excavation, embankment, fill, or roadway on private property has become a hazard to life and limb; endangers other property; adversely affects the safety, use, or stability of a public or private access, drainage channel, or adjacent or contiguous properties, the Administrator may require the property owner(s) to eliminate the hazard. The Administrator shall give notice in writing to the owner or other person(s) or agents(s) in control of the property. The owner(s) or their agent(s) must have the hazard corrected within the period specified in the notice.

SECTION 10: ADMINISTRATION OF ORDINANCE

- A. General: The Ordinance shall be administered in a manner consistent with other Ordinances of Dalton Gardens by an Administrator as appointed by the Mayor and City Council. All applicants shall use the Department of Environmental Quality's Best Management Practices as guidelines to implement the requirements and standards set forth in this Ordinance. Changes in the supporting documents may be accomplished by subsequently adopted resolution.
- B. Duration of Permit: Permits shall expire if the work authorized by the permit is not started within 180 days of issuance of the permit, or if work is suspended or abandoned at any time after the work has started for a period of 180 days or more. The City may grant one time extension for an additional 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work authorized by the permit. The City may set specific time limits to the permit for project initiation and completion for environmental reasons or for coordination with other permitted site work.
- C. Guarantee of Installation:
1. Subdivisions. Prior to a site disturbance permit being issued for subdivision infrastructure, the developer may be required by the City to provide an acceptable guarantee of financial surety to ensure that erosion control, site stabilization and storm water management improvements will be completed. The design professional shall provide an estimate of the cost to implement these improvements based on the current local construction costs. The financial guarantee may be up to 150 percent of the estimated cost to complete the plan. Prior to release of the financial guarantee, the developer's design professional shall submit a letter to the City, approving the construction and certifying its completion.

If the required improvements have not been completed by the specified date, the City may contract to have the work completed with the money from the financial guarantee. The City may also take additional enforcement measures as provided by law.
 2. For commercial and industrial development, or development on parcels with an overall natural slope of 6% or above, the owner may be required by the City to provide an acceptable guarantee of financial surety to the City prior to issuance of the site disturbance permit. The design professional shall provide an estimate of the cost to implement the approved plan. Estimated costs shall be based upon the current local construction costs. The financial guarantee may be up to 150 percent of the estimated cost to complete the plan. Prior to release of the financial guarantee, the applicant's design professional shall submit a letter to the City, approving the construction and certifying its completion.

If the required improvements have not been completed by the specified date, the City may contract to have the work completed with the money from the financial guarantee. The City may also take additional enforcement measures as provided by law.

- D. Variances. To vary from the standards and requirements of this ordinance, the applicant shall follow the variance criteria and procedures outlined in the Dalton Gardens Municipal Code Title 5 Chapter 8.
- E. Appeals: Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved. Such appeals shall be filed within a reasonable time, not to exceed forty-five (45) days from occurrence of the action being appealed. A Notice of Appeal specifying the grounds of the appeal shall be filed with the Administrator. The Administrator shall transmit to the Planning Commission all papers constituting the record upon which the action appealed was taken. The Administrator shall schedule the item for a hearing to be commenced within sixty (60) days of filing the Notice of Appeal and shall give legal public notice, as well as due notice to the parties in interest. The Planning Commission shall decide the matter within forty-five (45) days of completion of the Appeal hearing.

The decision of the Planning Commission may be appealed to the Mayor and City Council, provided that a Notice of Appeal is filed with the Administrator within ten (10) days of the decision. The Mayor and City Council shall decide the matter within forty-five (45) business days.

SECTION 11: INSPECTION

All activities governed by these regulations shall be subject to inspection by the City at any time. An approved set of plans must be available for review on-site whenever work is in progress. It shall be the permittee's responsibility to keep the City notified of the progress of the project and call for all required inspections.

SECTION 12: MAINTENANCE

Maintenance requirements and responsibility shall be clearly identified for all projects where Best Management Practices are employed, including BMPs for erosion, sedimentation control, and storm water management. When a storm water system is designed to service more than one lot, a maintenance agreement between all parties which benefit from the system must be established, including assurance of adequate funding. Easements across private property for maintenance access to community storm water systems shall also be required where necessary. All maintenance agreements must be approved by the Administrator.

In the event that appropriate maintenance of any storm water system is not conducted, the City shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outlined in Section 13.

SECTION 13: PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES

The following actions shall be considered violations of this Ordinance:

- A. Failure to obtain a permit prior to the start of any site disturbing activity for which a permit is required under this Ordinance;
- B. Failure to call for inspections as required by this Ordinance;
- C. Failure to complete the site disturbing activity within the time limits specified by the permit;
- D. Failure to install in a timely manner the necessary erosion control, sediment control, storm water management, or slope stabilization measures;
- E. Failure to maintain temporary and/or permanent erosion control, sediment control, storm water management, or slope stabilization measures;
- F. Conducting work on a site which exceeds the scope of work outlined in the approved plans;
- G. Damaging or otherwise impairing the function of a storm water system;
- H. Exporting sediment from a site in a manner not authorized by this Ordinance;
- I. Continuing work at a site after a Stop Work order has been placed;
- J. Discharging storm water in a manner not authorized by this Ordinance;
- K. Failure to correct a hazard as outlined in Section 9 of this Ordinance.

If any of the above violations have occurred, the Administrator may revoke the permit or order the work stopped by notice, in writing, served on any persons engaged in doing or causing such work to be done. Such person shall stop all site work until authorized by the Administrator to proceed. The Administrator may also withhold further issuance of permits. Stop Work orders may be appealed in the same manner as other appeals.

Violations of this Ordinance may be considered a criminal misdemeanor and shall be punishable by a maximum fine of \$300 or six (6) months in jail, or both. Each day of violation shall constitute a separate offense. The City may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

SECTION 14: 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 15: CONFLICTING ORDINANCE PROVISIONS

The provisions of this Ordinance shall supersede the provisions of Dalton Gardens Municipal Code Title 4 Chapter 3.

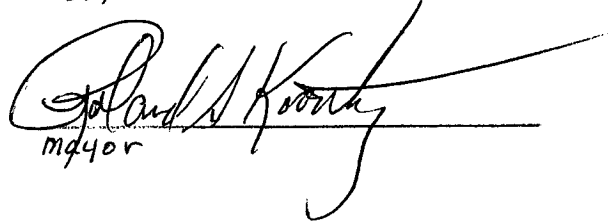
If any conflict occurs between this Ordinance and provisions of the Uniform Building Code or other City Ordinances, this Ordinance shall take precedence.

SECTION 16: 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 5th day of September, 2002.

DALTON GARDENS


Mayor

ATTEST:
CLERK



Ord # 160

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,
County of Kootenai,

} ss.

Misti Flood

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 1 consecutive Day commencing on the 11 day of September 2002 and ending on the 11 day of September 2002 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

Misti Flood

Personally appeared before me this 11 day of September 2002

Regina Mason

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

MY COMMISSION EXPIRES 6/18/03

