

**CITY OF DALTON GARDENS, IDAHO**

**ORDINANCE NO. 256**

**AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 4 CHAPTER 1 SECTION 2 CLARIFY WHICH INTERNATIONAL CODES APPLY; AMENDING TITLE 4, CHAPTER 3, SECTION 4 TO REMOVE UNUSED TERMS FROM THE DEFINITIONS; AMENDING TITLE 4, CHAPTER 3, SECTION 5 TO CHANGE THE APPLICABILITY AND PERMITTING REQUIREMENTS FOR SITE DISTURBANCE; AMENDING TITLE 4, CHAPTER 3, SECTION 6 TO REVISE REQUIREMENTS FOR PROFESSIONALLY PREPARED PLANS; AMENDING TITLE 4, CHAPTER 3, SECTION 7 TO REVISE STANDARDS FOR GRADING, EROSION CONTROL, STORMWATER CONVEYANCE AND STORMWATER TREATMENT; AMENDING TITLE 4, CHAPTER 3, SECTION 8 TO DELETE THE ENTIRE SECTION; AMENDING TITLE 4, CHAPTER 3, SECTION 10 TO REVISE REQUIREMENTS FOR FINANCIAL GUARANTEES; AMENDING TITLE 5, CHAPTER 1, SECTION 4 TO REVISE AND ADD DEFINITIONS; AMENDING TITLE 5, CHAPTER 3, SECTION 1, SUBSECTION B TO MODIFY ALLOWED, ACCESSORY AND SPECIAL USES IN THE COMMERCIAL DISTRICT; AMENDING TITLE 5, CHAPTER 3, SECTION 11 TO RELOCATE LANDSCAPING DEFINITIONS, REVISE APPLICABILITY, REVISE LANDSCAPING STANDARDS, AND ADD A REQUIREMENT FOR SIDEWALKS; AMENDING TITLE 5, CHAPTER 3, SECTION 14 TO REVISE DEFINITIONS FOR CERTAIN USES; AMENDING TITLE 5, CHAPTER 10, SECTION 7 TO ADD PROVISIONS FOR NOTICE AND ORDER FOR CODE ENFORCEMENT; PROVIDING SEVERABILITY, REPEALING CONFLICTING PROVISIONS, AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DALTON GARDENS, IDAHO:**

**SECTION 1: AMENDMENTS TO TITLE 4, CHAPTER 1, SECTION 2**

**4-1-2: CODES ADOPTED:**

The following nationally recognized codes are adopted as the official building codes of the city of Dalton Gardens:

- A. Building Code: The international building code, ~~2009 edition~~, prepared by the International Code Council, Inc., as adopted by the state of Idaho or the Idaho building code board, together with any amendments or revisions to the international building code made by the Idaho building code board through the negotiated rulemaking process, is adopted.

- B. Residential Code: The international residential code, ~~2009 edition~~, prepared by the International Code Council, Inc., as adopted by the state of Idaho or the Idaho building code board, together with any amendments or revisions to the international residential code made by the Idaho building code board through the negotiated rulemaking process, is adopted.
- C. Energy Conservation Code: The international energy conservation code, ~~2009 edition~~, prepared by the International Code Council, Inc., together with any amendments or revisions to the international energy conservation code made by the Idaho building code board through the negotiated rulemaking process, is adopted.
- D. Mechanical Code: The international mechanical code as published by the International Code Council.
- E. NFPA Standards For Manufactured Homes: National Fire Protection Association codes number 501A and 1194 and the accepted engineering practice standards contained therein for compliance by the manufactured home recreational vehicle industry.
- F. Fire Code: The international fire code as published by the International Code Council.
- G. Fuel Gas Code: The international fuel gas code as published by the International Code Council.
- H. Life Safety Code: Life safety NFPA 101 as published by the National Fire Protection Association.

The adopted versions of the foregoing codes shall be deemed superseded by successive versions of such codes as they are adopted or approved by the state of Idaho effective on the date any such codes are made effective.

## **SECTION 2: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 4.**

### **4-3-4: DEFINITIONS:**

**ADMINISTRATOR:** An official appointed by the mayor and city council to administer provisions of this chapter. 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):** The water quality program passed by congress in 1987.~~

**CLEARING:** The destruction and removal of vegetation by manual, mechanical, or chemical methods.

**CONSTRUCTION OPERATOR:** 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):** 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 manmade feature designed or constructed to reduce damage caused by flood events, including, but not limited to, a dam, dike, channel, levee, 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.

**GROUND WATER:** 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.

**HIGH WATER MARK:** The line which water impresses on the soil by covering it for sufficient periods to deprive it of vegetation.

**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.

**NPDES PERMITTING AUTHORITY:** The U.S. environmental protection authority, region 10, is the NPDES permitting authority for the city of Dalton Gardens.

**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.

**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 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 watercourses.

**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 six inches (6") thick, with a minimum rock size of two (2) to three inches (3"), 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 (BMPs)).

**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 watercourse of perceptible extent which confines and conducts continuously or intermittently flowing water. This definition is intended to include streams in natural or manmade 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 one thousand three hundred twenty feet (1,320').~~

~~**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 chapter, 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 manmade 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 3: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 5.

#### 4-3-5: APPLICABILITY:

A. Exemptions: ~~The following activities are exempt from the permit requirements of this chapter:~~

Any of the following activities are exempt from the permit requirements of this chapter ~~unless grading, excavating and placement of fill on a site has more than a six percent (6%) slope or results in disturbance of more than one-third (1/3) of the parcel. This~~ These exemptions shall not apply to commercial or industrial developments or for subdivision infrastructure development:

- ~~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 chapter;~~
- ~~7. In any twelve (12) month period, excavation or placement of fill totaling less than seventy five (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 fifty (50) seventy five (75) cubic yards;~~
- ~~10. Grading, excavating and placement of fill on a residential site that results in a total disturbance of less than a total of fifteen (15) cubic yards. For example and clarification, a full size pickup truck can carry two (2) cubic yards. A small single axle dump truck can carry five (5) cubic yards. A large dump truck can carry ten (10) to fifteen (15) yards. As part of the building permit application, the contractor or property owner shall provide an affidavit indicating the amount in cubic yards that shall be disturbed on the site; (Ord. 196, 4-3-2008)~~

148. 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;

129. Grading and maintenance of public roadways.

Excavation, grading and paving activities which are exempted from the permit requirement under subsections A7 A5 through A12 A8 of this section shall employ reasonable and knowledgeable best management practices to prevent sediment from leaving the site.

B. Permit Required: Except as exempted under subsection A of this section, a site disturbance permit shall be required for the following activities:

1. Construction of all new driveways, private or public roads, ~~improvements of existing driveways, private or public roads,~~ or infrastructure authorized through the ~~building permit, subdivision, or 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 commercial or light industrial 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 site disturbance or construction activity resulting in the disturbance of more than ~~fifteen (15)~~ seventy five (75) cubic yards of on a residential parcel lot;
6. All other excavation, filling, and grading activity, except as specifically exempted under subsection A of this section.

Where a building permit has been properly issued by the City, it shall include the excavation and grading activity that is directly related to the construction authorized by said building permit.

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 chapter.~~



~~b. All other work conducted by utility installers shall use knowledgeable and reasonable best management practices to prevent sediment from leaving the site.~~

#### **SECTION 4: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 6.**

##### **4-3-6: 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" (as defined in this chapter), 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. Site Disturbance Plans: 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 chapter. The administrator may waive the submission of plans for minor improvements if the standards of this chapter can be met by existing site conditions.

1. Plans prepared by a design professional shall be required in the following circumstances:

- a. Site disturbing activities governed by this chapter on sites where the disturbance will occur on with a slope greater than six fifteen percent (6%15%).
- b. All commercial and industrial development.
- c. ~~When required under subsection 4-3-5C of this chapter.~~
- d. Subdivision infrastructure development.

2. ~~When required,~~ All site disturbance plans shall include a site plan, drawn to scale, (not less than 50 feet equals 1 inch without prior approval from the administrator) including property boundaries, north arrow, adjacent roads, location of proposed work, and distances to property lines or prominent features of the land. The site plan shall include property boundaries including property pins, rights of way, easements, existing and proposed roads, driveways, walkways, structures, and other impervious areas. The plans shall show water sources, drainage channels, and all utilities (including septic tanks, drain fields, water systems, irrigation systems, power, gas and phone). The site shall show topographic contours at appropriate intervals for the site along with a reference datum. All structures and prominent feature shall be dimensioned on the plan from the property lines or other acceptable baselines.

3. When required, a grading / stormwater management plan.

a. The grading / stormwater management plan shall show the area to be disturbed including cut and fill limits for roadways. Grade break, drainage channels and other storm water conveyance channels and BMPs shall be shown on the plans with adequate grading and layout information for constructions. All existing and new structures shall have a finished floor elevation stated on the plans. All hard surface shall have adequate point elevation provided for construction (including point elevation information at all grade breaks, angle point curve points and tie in points at existing surfaces).

b. ~~When applicable, the location, width and configuration of benches, terraces or other slope treatments must be indicated on the plans.~~

4. When required, an erosion control plan. The erosion control plan must include the location, type and proper installation details for all the temporary and permanent erosion and sediment control measures. The plans must include a narrative describing the inspection criteria and maintenance measures for each temporary control system installed including dust abatement and methods to minimize the tracking of sediment onto roadways. The final vegetation plan must address the method and type of vegetation proposed and what level of growth must be established and maintained for acceptance as a permanent erosion control measure.

## **SECTION 5: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 7.**

The following standards for Grading and Erosion and Sedimentation Control (Sections 4-3-7 A. and B.) apply to all excavation and grading activity, regardless of whether a permit is required.

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, revegetation,

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, revegetation, maintenance, and overall water quality impacts. Fill slopes shall not be constructed on natural slopes of ~~five~~ two to one (~~5:1~~ 2:1) 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 (6%) 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 ninety five 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 (1/2) of the height of the slope with a minimum of five feet (5') and a maximum of twenty feet (20'), 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 eight feet (8') 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~~ prevent 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 revegetated 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~~ 25-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 six percent (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 one-half inch (1/2") 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. Roof runoff may be directly discharged to an infiltration BMP without treatment.
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 subsection 4-3-10D of this chapter. 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. Ground Water And Springs: Springs and other ground water 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 nonerosive, avoids sediment transport, and dissipates energy, in accordance with the best management practices guidelines. The construction operator must ensure that the ground water will not interfere with the implementation or function of the planned storm water or erosion control improvements.

## **SECTION 6: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 8.**

Delete Section in its entirety.

~~4-3-8: DISTURBANCE RESTRICTIONS:~~

~~A. Stream Protection Zones: During and after construction operations, streambeds 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 seventy five feet (75') on each side of the high water marks.~~

~~b. Class 2 Stream Protection Zone: The area encompassed by a minimum slope distance of thirty feet (30') 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 five feet (5') 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 thirty feet (30').~~

~~d. Prior Lots Created: For lots legally created prior to the effective date hereof, the width of any protection zone may be reduced to be no greater than forty percent (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 chapter are met.~~

~~e. For site disturbing activity not exempted under subsection 4-3-5A11 of this chapter, the administrator may allow work within stream protection zones during periods of low flow, in accordance with all other requirements of this chapter. Prior to authorizing such work, the administrator shall consult with the Idaho department of fish and game, or~~

~~other agency(ies) as appropriate, to determine whether the timing or nature of the project will have an adverse impact on the environment.~~

## **SECTION 7: AMENDMENTS TO TITLE 4, CHAPTER 3, SECTION 10.**

### **4-3-10: ADMINISTRATION:**

A. General: This chapter 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 chapter. 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 one hundred eighty (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 one hundred eighty (180) days or more. The city may grant a one time extension for an additional one hundred eighty (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 one hundred fifty percent (150%) 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. Other Development: For commercial and industrial development, or other development where a site disturbance permit was required ~~on parcels with an overall natural slope of six percent (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 one hundred fifty percent (150%) 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 chapter, the applicant shall follow the variance criteria and procedures outlined in title 5, chapter 8 of this code.

E. Appeals: Appeals concerning interpretation or administration of this chapter 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 8: AMENDMENTS TO TITLE 5, CHAPTER 1, SECTION 4.**

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

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

**ACCESSORY LIVING UNIT:** A building or portion(s) of a building, located on the same lot, but separate from the principal dwelling with habitable space and any combination of sink, toilet, kitchen, or bathing facility that could enable the residential occupation of the structure or portion of the structure. A garage, shop or storage building with a toilet and a sink shall not be considered an accessory living unit.

**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.

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.

DWELLING: A structure, building, or shelter, serving as a place where one or more persons live. Also known as a house, residence, abode, domicile, habitation, lodging, or home.

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

FENCE: A structural device forming a vertical physical barrier.

FIELD: A piece of land cleared of trees and usually enclosed.

FRONT LOT PROPERTY LINE: For an interior lot that is only accessed by one street, a front lot line is the line that is directly adjacent to the street. 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 wall, support column or similar vertical support for any building on the lot, except as otherwise permitted by this code. save as elsewhere in this chapter excepted.~~ Eaves or roof overhangs may encroach into the setback a maximum of 24 inches.

GOVERNING BODY: The city council of the city of Dalton Gardens.

HEIGHT: A measurement of the distance from the bottom to the top of something which is upright. Structure height is measured from natural grade to the highest ridgeline or peak on the roof. ~~point of a structure.~~ Appurtenances such as chimneys, cupolas, antennas, weather vanes and the like are not included in the height measurement. Chimneys, cupolas and similar encroachments above the ridgeline (not to include antennas, weather vanes and the like) shall be limited in height to 10 feet above the ridgeline and shall not exceed 10 feet in either horizontal dimension or 100 square feet in the aggregate.

INTERIOR LOT: A lot that is not on the corner and is between other lots. The interior lot is not located adjacent to two (2) streets.

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.

LANDSCAPE PLAN: Professionally prepared graphic and written specifications for design, planting, and maintenance as well as detailed plans to create, arrange, and

modify natural and manmade features.

LANDSCAPED AREA OR LANDSCAPING: That area within the boundaries of a given lot that is devoted to, and consists of, landscaping material, including, but not limited to, trees, shrubs, perennials, vines, grasses, or other live ground covers, and annual flowerbeds. Incidental hardscape materials may be included such as planters, brick, stone, placed rocks or boulders, water forms, and aggregates, but the extent of such hardscape materials shall be less than 20 percent of the landscaped area.

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 or aliquot parts 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 chapter.

LOT COVERAGE: The portion of a lot, stated in terms of percentage, that is covered by all buildings, structures or paved surfaces. This shall include all buildings, porches, breezeways, patio roofs and the like, whether open box type or lathe roofs, or fully roofed, but shall not be deemed to include fences, or walls, or swimming pools. It shall also include all surfaces with concrete or asphalt paving, such as patios, driveways, and sidewalks when surfaced with pavement. Gravel surfaces, bricks, pavers, and similar "hard" surfaces shall not be included in lot coverage calculations.

MAINTAIN, MAINTENANCE: In reference to landscaping includes mulching, mowing, spraying, irrigating, fertilizing, propping, bracing, treating for disease or injury, snow removal, proper pruning techniques based on current arboriculture standards, and any other similar acts which promote the life, growth, health, safety, or beauty of the landscape vegetation.

MANUFACTURED HOME: A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation

when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. section 5401 et seq.

**MOBILE HOME:** A factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

**OBSTRUCTED VIEW:** For purposes of this chapter, to block or hinder clear sight; to impede or interfere with a clear vision of a yard, field, street, driveway or corner where traffic may enter. Fences of obstructed views may include, but are not limited to, fences over four feet (4') in height, any type of privacy fencing, solid vinyl fencing, concrete, cinder block, wood, wrought iron or chain-link with slats.

**PARCEL:** A quantity of land identified for taxation purposes. It is common for a lot and a parcel to share the same space and have common boundaries, but this is not always the case. For instance, it is possible for a parcel to have more than one lot, or portions of lots.

**PORTABLE STORAGE CONTAINERS:** Containers not used for human occupancy, and transported to a designated location for storage purposes (typically known as PODS, MODS, shipping container). Not a pre-fabricated shed.

**PRE-FABRICATED SHED:** Typically a simple, small, single-storied roofed structure built off-site and delivered to the site in one unit. Typically used for storage.

**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 property line of the lot and the nearest wall, support column or similar vertical support for any building on the lot, except as otherwise permitted by this code. Eaves or roof overhangs may encroach into the setback a maximum of 24 inches.

**RECREATIONAL VEHICLE:** A vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. A trailer house is considered a recreational vehicle.

**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 property line of the lot and the nearest wall, support column or similar vertical support for any building on the lot, except as otherwise permitted by this code. Eaves or roof overhangs may encroach into the setback a maximum of 24 inches. ~~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 or manufactured home arranged or designed to be occupied by not more than one family. In addition, the classification "single family dwelling" shall include any group residence in which eight (8) or fewer unrelated persons with disabilities or elderly persons reside and who are supervised at the group residence in connection with their disability or age related infirmity. Resident staff, if employed, need not be related to each other or to any of the persons with disabilities or elderly persons residing in the group residence. No more than two (2) of such staff shall reside in the dwelling at any one time.

**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.

**STORY:** The habitable space between each floor level of a building.

**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 HOUSES:** A vehicle without means of self-propulsion, licensable as a conveyance on a public street or highway, constructed to permit temporary or intermittent occupancy as a dwelling or sleeping place for one or more persons. Trailer houses are considered Recreational Vehicles for purposes of this Code.

**UNOBSTRUCTED VIEW:** For purposes of this chapter, a clear unhindered view that does not impede the sight of humans, animals, yards, fields, streets, driveways, or street intersections where humans or vehicles access. Fences that are unobstructed views may include, but are not limited to, barbwire, picket, post and rail, split rail, wattle, chain-link, woven wire, or solid fences less than four feet (4') in height.

## **SECTION 9: AMENDMENTS TO TITLE 5, CHAPTER 3, SECTION 5-3-1 B.**

### **5-3-1: USES:**

#### **B. Allowed Uses:**

##### **1. Generally:**

a. All uses shall meet the Dalton Gardens sewage management agreement which includes, but is not limited to, approval of Panhandle health district or be connected to a centralized municipal sewer system.

b. Any uses not specifically delineated as allowed, or allowed as a specified special use permit shall be considered prohibited.

~~c. All equipment, inventory and supplies associated with retail sales, services or allowed as a result of special use permits shall be stored within a completely enclosed building or behind a one hundred percent (100%) site obscuring fence, except for the following:~~

~~———(1) Vehicle sales for display.~~

~~———(2) Equipment rentals for display.~~

~~———(3) Limited inventory for advertising purposes, restricted to three (3) items on display; shall not impede required parking spaces and circulation patterns.~~

~~———(4) Any equipment or inventory displayed shall not create a visual obstruction in the vision triangle that will interfere with the ingress or egress to a roadway or driveway.~~

~~d. All uses shall be required to comply with all international codes adopted by the city of Dalton Gardens, Idaho, and this code.~~

e. Appropriate conditions on allowed uses may be imposed administratively at project review to mitigate impacts.

2. Allowed Uses: See section [5-3-14](#), "Appendix 1 Activity Groups", of this chapter for general description and definition of each use.

Administrative offices.

Agricultural supplies and commodity sales.

Automobile and accessory sales.

Automobile parking when serving an adjacent business or apartment.

Automobile renting.

Automotive fleet storage.

Automotive parking.

Banks and financial institutions.

Bars and taverns.

Building maintenance service.

Business supply retail sales.

Business support service.

~~Childcare facility.~~

Coffee and espresso stands.

Commercial film production.

Communication service.

Community assembly.

Community organization.

Construction retail sales.

Consumer repair service.

Convenience sales.

Convenience service.

Department stores.

Essential public utility service.

Farm equipment sales.

Finished goods wholesale.

Food and beverage stores for off site consumption.

General construction service.

Government facilities.

Group assembly.

Handicapped or minimal care facility.

Home furnishing retail sales.

Hospitals/healthcare.

Hotel/motel.

Laundry service.

Microbreweries.

Ministorage facilities.

Neighborhood recreation.

Nursery sales and landscaping services.

Nursing/convalescent/rest homes for the aged.

Personal service establishments.

Professional offices.

Public recreation.

~~Rehabilitative facility.~~

Religious assembly.

Restaurants.

Retail gasoline sales.

Spas and health clubs.

Specialty retail sales.

Temporary or portable structures as regulated by [title 3, chapter 4](#) of this code.

Veterinary office.

Wineries.

### 3. Allowed Accessory Uses:

Residential caretaker quarters limited to one 600-square foot area within primary structure which shall meet international building and fire codes.

Storage for primary use, subject to the following restrictions:-

All equipment, inventory and supplies associated with retail sales, services or allowed as a result of special use permits shall be stored within a completely enclosed building or behind a one hundred percent (100%) site obscuring fence, except for the following:

(1) Vehicle sales for display.

(2) Equipment rentals for display.

(3) Limited inventory for advertising purposes, restricted to three (3) items on display; shall not impede required parking spaces and circulation patterns.

(4) Any equipment or inventory displayed shall not create a visual obstruction in the vision triangle that will interfere with the ingress or egress to a roadway or driveway.

4. Special Use Permits: See section [5-3-14](#), "Appendix 1 Activity Groups", of this chapter for general description and definition of each use. A structure, site or parcel may have more than one special use permit. Each special use is considered a separate permit.

Adult entertainment sales and service.

Auto camp.

Automobile repair and cleaning.

~~Boarding house.~~

Car wash.

Childcare facility.

Commercial kennel.

Commercial recreation.

Community education.

~~Criminal transitional facility.~~

Custom manufacturing.

~~Duplex housing.~~

Funeral service.

~~Group dwelling – detached housing.~~



Juvenile offenders facility.

Light industrial uses.

~~Multiple family housing.~~

Noncommercial kennel.

~~Single family detached housing.~~ Residential uses, including but not limited to detached single family residential, duplex, townhomes, multi-family, subject to a density not greater than 8 units per acre and subject to the standards of Section 5-3-3.

Veterinary hospital with boarding facilities.

Warehouse/storage.

Wireless communication facility.

5. Prohibited Uses: See section [5-3-14](#), "Appendix 1 Activity Groups", of this chapter for general description and definition of each use.

Those uses which may have been declared nuisances in any court of record or may be deemed obnoxious or offensive by reason of emission of odor, smoke, dust, gas or noise by the city and:

Amusement park, theme park.

Automobile graveyards and junkyards (defined separately).

Aviation field or landing strips.

Bulk petroleum storage stations and terminals.

Chemical plant.

Concentrated animal feeding operation.

Extensive impact uses.

Heavy industrial uses.

Manufacture or storage of explosives or gunpowder with the exception of retail sale of gunpowder for firearms.

Metal powder works.

Outdoor theaters.

Recycling plant.

Riding stable.

Slaughterhouse.

Solid waste facility or solid waste transfer station.

Tanneries.

6. Classification Of Unlisted Uses: Any activity or facility which is not expressly classified within any activity group shall be included in that group whose description most closely portrays it. In cases of uncertainty as to the classification of any use, the city shall classify the use, subject to the right of appeal from such determination pursuant to the appeal procedure, [chapter 10](#) of this title. In cases of mixed uses as defined in section [5-3-14](#), "Appendix 1 Activity Groups", of this chapter, the use that occupies the majority of the floor area as determined by the city shall be considered the principal use. Such determination shall be subject to the appeal procedure as delineated in [chapter 10](#) of this title.

## **SECTION 10: AMENDMENTS TO TITLE 5, CHAPTER 3, SECTION 11.**

### **5-3-11: FENCING, LANDSCAPING, BUFFER YARDS, AND SIDEWALKS PARKING LOT LANDSCAPING:**

A. Fencing: Fencing is not required; however, if fencing is erected or installed, the following standards apply:

1. Materials For Fences And Walls: Fences and walls may be of material commonly used in fence construction (for example: wood, wrought iron, chainlink, vinyl), provided that said fence or wall meets any criteria for sturdiness and construction as established in other city regulations.

2. Fence Height: All fences and walls greater than six feet (6') in height shall conform to the currently adopted building code and other applicable provisions of this code. Fences and walls shall not exceed seven feet (7') in height unless specifically allowed in conjunction with a special use permit, and in any event fences and walls shall not exceed ten feet (10') in height. 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.

### 3. Fence Setbacks:

- a. Front yard or yards directly adjacent to public right of way: Fences over three feet (3') in height in the front yard shall be set back at least fifteen feet (15') from the property line.
- b. Rear and side yard: Fences are allowed on property lines unless adjacent to a public right of way, which then shall follow front yard setbacks in subsection A3a of this section.
- c. Fences are subject to vision triangle restrictions as delineated in subsection [5-3-1A5](#) of this chapter.

### B. Landscaping And Buffering:

#### 1. Definitions: For purposes of this chapter, the following definitions apply:

~~LANDSCAPE PLAN: Graphic and written specifications for design, planting, and maintenance as well as detailed plans to create, arrange, and modify natural and manmade features.~~

~~LANDSCAPED AREA OR LANDSCAPING: That area within the boundaries of a given lot that is devoted to, and consists of, landscaping material, including, but not limited to, trees, shrubs, perennials, vines, grasses, or other ground covers, and annual flowerbeds. Incidental hardscape materials may be included such as planters, brick, stone, placed rocks or boulders, water forms, and aggregates.~~

~~MAINTAIN, MAINTENANCE: In reference to landscaping includes mulching, mowing, spraying, irrigating, fertilizing, propping, bracing, treating for disease or injury, snow removal, proper pruning techniques based on current arboriculture standards, and any other similar acts which promote the life, growth, health, safety, or beauty of the landscape vegetation.~~

2. Landscaping Applicability: All Pproperties in the Commercial District shall be required to develop a landscaping plan and add landscaping and buffering. Compliance with the provisions of this section shall be required in the following circumstances: The following is applicable to this chapter:

a. ~~Any undeveloped property with areas not improved with buildings, paving or landscaping.~~

b. Any building permit for a new structure.

eb. Building permits for a reconstruction, alteration, remodel or renovation that exceeds fifty percent (50%) of the market value of the existing structure within a five (5) year period shall include landscaping adjacent to the building and any parking or circulation area within thirty feet (30') of the altered or remodeled structure. In the event of fire or

natural disaster, the structure can be reconstructed to the same size and in the same location, regardless of market value without triggering the requirements of landscaping.

~~dc. Any grading, repaving construction, reconstruction, reconfiguration, addition to, or alteration of a parking lot that triggers a site disturbance permit as delineated in [title 4, chapter 3](#) of this code unless due to an eminent domain by a public agency or municipality shall be required to include landscaping of any areas adjacent to street rights of way, any vision triangles adjacent to a public right of way or driveway. Exemptions from the landscaping requirement are seal coating, overlays, or general maintenance of a parking lot which includes repaving less than fifty percent (50%) of an existing parking lot and where no regrading is required which will affect drainage to a public right of way or adjacent properties.~~

3. Landscaping Plan Required: If landscaping will be planted or installed, a landscaping plan shall be required to be reviewed and approved by the city. All trees and shrubs shall be planted, maintained, or transplanted in accordance with accepted nursery and horticulture standards as those specified by International Society Of Arboriculture or the American Nursery And Landscape Association.

a. The landscape plan shall be professionally prepared, drawn to scale and indicate the following:

- (1) Boundaries and dimensions of the site.
- (2) Trees and any other vegetation that is to be retained.
- (3) The location and design of areas to be landscaped.
- (4) Type and design of proposed irrigation.

4. Landscaping Required, Additional Standards: ~~When landscaping plans and landscaping apply, t~~The following areas shall be landscaped. These standards are the minimum required:

~~a. Undeveloped lots or parcels shall be weeded, planted with indigenous grasses and maintained in a neat and orderly manner. The undeveloped property shall be exempt from the planting requirement if the property owner has submitted plans or a letter of intent to the city regarding any legal future development that will take place within five (5) years or has a current application for development pending. This does not preclude the property owner from weeding and maintenance of the property. Under subsection [5-3-12E2e](#) of this chapter, performance standards delineate that a violation occurs if weeds or unkempt landscaping constitute a fire hazard.~~

~~b. All front, rear and side yards within five feet (5') of street rights of way shall be landscaped;~~

~~eb. All vision triangle corners shall be landscaped, except those required for parking stalls and traffic circulation aisles as delineated in [chapter 12](#) of this title;~~

dc. Landscaping within the parking lot equal to 10% of the gross parking area used for parking spaces (not including the areas required in a. and b. above). Traffic aisles and driveways are excluded from this calculation. Such landscaping areas should be dispersed throughout the parking area. Parking lots and the accompanying landscaping shall be configured so that no parking space is more than 75 feet from a landscaped area. Around primary structures, a strip of landscaped area of at least fifteen feet (15') wide shall be provided in front of the structure and at least five feet (5') wide shall be provided along the sides of the structures. New primary structures shall include landscaping in any parking area as delineated in subsection B12 of this section and [chapter 12](#) of this title within thirty feet (30') of the new structure;

~~e. All parking areas within thirty feet (30') of a commercial structure that will be reconstructed, altered, remodeled or renovated exceeding fifty percent (50%) of the market value of the existing structure within a five (5) year period shall be landscaped as delineated in subsection B12 of this section and [chapter 12](#) of this title.~~

~~f. All new parking lots per subsection B12 of this section, shall meet parking lot landscaping standards.~~

d. All landscaped areas shall consist of a mix of deciduous and evergreen trees, shrubs and live ground cover. There shall be at least one tree and two shrubs for each three hundred (300) square feet of required landscape area.

ge. All buffer yards shall be landscaped in accordance with subsection B11 of this section.

hf. No trees or shrubs or landscaping treatment shall obstruct the view between the intersection or the street and the access drives and parking aisles near entries and exits. Plantings within the vision triangle as defined in subsection [5-3-1A5](#) of this chapter shall not exceed a maximum mature height of thirty inches (30").

ig. No ground disturbance as a result of site construction, grading, development or paving shall be left exposed to bare soil at the conclusion of construction.

h. All landscaped areas shall be separated from driveways, drive aisles, loading and parking areas by a 6-inch concrete curb or similar permanent barrier.

5. Landscaping Plans; Development Agreement Option: A landscaping development agreement may be initiated by the property owner. Such an agreement is negotiated with the city is an agreement between the property owner and the city to provide flexibility in the implementation of the standards of this chapter while meeting the intent of the requirements. The agreement may allow for the relocation of required landscaping, but does not allow for elimination of required elements. meet the intent of this chapter while providing flexibility in the implementation and standards. If the applicant believes that he/she cannot meet the intent of the standards of this chapter without modification relief, the applicant may apply for a variance to the code under [chapter 8](#) of this title. A development agreement may be initiated by the applicant.

a. Information: The agreement shall be in a form provided by the city. No agreement shall be accepted without the following information included in the agreement and provided by the applicant:

(1) Legal name, title and addresses of the applicant, property owner and/or others with a direct vested interest in the ~~conditional zoning~~ landscaping development agreement and ~~rezone request~~.

(2) A legal description of the property that is subject of the ~~rezone request~~ agreement. Such legal description must be acceptable to the city.

(3) Signatures of all applicants, owners, developers, or lawfully authorized agents, shall be notarized, and in the case of lawfully authorized agents, properly executed powers of attorney in a form acceptable to the city's legal counsel shall be presented to the city and shall be made part of the agreement.

(4) A narrative that states what changes will be made to the landscaping plan and how those changes will continue to meet the intent of the standards for landscaping and buffering.

(5) A site plan indicating proposed and existing landscaping, materials and plants to be used and buildings and other features that will assist in providing an accurate description of the proposed landscaping plan.

(6) A clause that states that once the agreement is signed by both the property owner and the city, the property owner understands and accepts that changes made to the landscaping plan shall need to be reviewed and approved by the city through an amended landscaping development agreement.

b. Termination Of Agreement: A termination of the agreement may be initiated by the city if the property owner fails to comply with any term, condition, obligation or duty of the agreement.

(1) If the city perceives that the property owner has not complied with the agreement, the city shall provide notice to the property owner of a compliance hearing held to determine compliance and possible termination of the agreement.

(2) The compliance hearing is a public hearing and will comply with Idaho statute 67-6509. The property owner shall provide reasons to the city why compliance has not been implemented and why the city should not terminate the agreement and require the ordinance standards to be met.

6. Change Of Use Or Occupancy: When the use of a building or portion of a building changes to another use which does not involve expansion or remodeling, such use need not provide landscaping except if additional off street parking is required, in which case landscaping shall be required for all new parking spaces or parking facilities, as required in this chapter. ~~within thirty feet (30') of the building.~~

~~7. Amount Of Coverage: All required landscape areas shall be planted so as to achieve seventy five percent (75%) landscaped coverage within three (3) years. If this amount of coverage is not achieved within three (3) years, the area shall be planted immediately or as soon as the planting season permits.~~

8. Installation and Maintenance: The owner/developer shall follow accepted nursery standards and practices in the planting and maintenance of required landscape areas. Soil and slope stabilization must result after landscape installation.

~~9. Maintenance: All trees and shrubs shall be planted, maintained, or transplanted in accordance with accepted nursery and horticulture standards as those specified by International Society Of Arboriculture or the American Nursery And Landscape Association.~~ All required landscaping shall be permanently maintained in a healthy growing condition by the property owner or the property owner's designee. This includes the maintenance of landscape materials within or abutting the public right of way adjacent to the subject property. The property owner shall remove and, if required to meet the standards of this chapter, shall replace any unhealthy or dead plant material immediately or as the planting season permits.

~~109.~~ Completion Time: The city may authorize a delay in the completion of planting outside of the planting season. Should a delay occur, a bond or other sufficient security approved by the city attorney, equal to one hundred fifty percent (150%) of the costs of landscaping, will be provided by the owner/developer in the form of cash, certified check, irrevocable letter of credit, or bond and held by the city until said landscaping is complete or the guarantee is forfeited for noncompliance. No final certificate of occupancy shall be issued until the required landscaping is complete or a guarantee is posted.

~~110.~~ Buffer Yard Regulations:

a. ~~Definition:~~ For purposes of this chapter, a "buffer yard" is part of the required landscaping and is a landscaped area that serves to physically and/or visually separate land uses having incompatible facilities or activities or differing intensities of use.

b. ~~Applicability:~~ A buffer yard is required along property lines that are adjacent to the residential zone. when:

~~(1) Establishing a new structure, new parking lot or new use (where no structure, parking lot or use exists) or remodeling or expanding an existing structure, parking lot or use within twenty five feet (25') of the residential or light industrial zoning districts.~~

~~(2) Any new or existing altered or expanded loading berths, outdoor storage areas and exposed machinery associated with any activity are within twenty five feet (25') to a residential use in the applicable zoning districts or a public street right of way.~~

~~eb.~~ Minimum Width And Height Required: The buffer yard shall be a minimum of 15 feet wide. required is at least five feet (5') high and five feet (5') wide unless directly adjacent to a public right of way. In such cases, the buffer yard may be a minimum of 5 feet wide. Any buffer ~~directly~~ adjacent to public right of way must meet vision triangle

~~standards and the buffer height shall not exceed three feet (3') and the buffer width shall be at a minimum of three feet (3').~~

dc. Materials For Buffer Yards:

(1) All buffer yards shall be comprised of, but not limited to, a mix of evergreen and deciduous trees, shrubs and ground cover in which evergreen plant materials comprise a minimum of seventy five percent (75%) of the total plant material used.

(2) The required buffer yard shall result in an effective barrier within ~~three (3)~~ five (5) years and be maintained such that fifty percent (50%) or more of the vertical surface is closed and prevents the passage of vision through it, as determined by the city.

~~12. Parking Lots: Landscaping shall be required for all new or expanded parking lots and all areas graded, paved or repaved that fall under [title 4, chapter 3](#), "Erosion, Sedimentation Control And Stormwater Management", permit of this code. Landscaped areas within a parking lot shall be separated from paved driveway, parking spaces and maneuvering areas by a barrier or curb.~~

~~a. Amount Required: The amount of landscaping required is calculated as a percentage of the gross paved areas used for parking spaces. Traffic aisles and driveways are excluded from this calculation. This percentage is based on the number of parking spaces provided as follows:~~

<del>Number Of Parking Spaces</del>	<del>Percent Gross Area To Be Landscaped</del>
<del>1 - 50</del>	<del>8</del>
<del>51 - 99+</del>	<del>10</del>

~~b. Material And Spacing Requirements: Parking lot landscaping shall consist of, but is not limited to, a mix of deciduous and evergreen trees, shrubs and ground cover. There shall be at least one tree for each three hundred (300) square feet of required landscape area.~~

C. Sidewalks. For parcels with frontage on Aqua Circle, a 5-foot wide concrete sidewalk along the road frontage shall be installed by the property owner as part of the parking lot and landscaping requirements. Said sidewalk may be located on the subject parcel or within the road right of way. If located within the right of way, it shall be located immediately adjacent to the property line. If sidewalk exists on the adjacent parcel(s), the new sidewalk shall be configured to meet the existing.

D. Undeveloped lots or parcels shall be weeded, planted with indigenous grasses and maintained in a neat and orderly manner. The undeveloped property shall be exempt



from the planting requirement if the property owner has submitted plans or a letter of intent to the city regarding any legal future development that will take place within five (5) years or has a current application for development pending. This does not preclude the property owner from weeding and maintenance of the property. Under subsection 5-3-12E2e of this chapter, performance standards delineate that a violation occurs if weeds or unkempt landscaping constitute a fire hazard.

## **SECTION 11: AMENDMENTS TO TITLE 5, CHAPTER 3, SECTION 14.**

### **5-3-14: APPENDIX 1 ACTIVITY GROUPS:**

Administrative. Activities typically performed by public, quasi-public, and public utility administrative offices such as city, county, state or similar offices.

Adult entertainment. Activities, whether conducted intermittently or full time, that primarily involve the display, exhibition, or viewing of people and/or materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts or by emphasis on male or female genitals, buttocks or female breasts; typical of adult motion picture theaters, adult mini-motion picture theaters, and adult motion picture arcades, and including massage parlors and bathhouses.

Adult entertainment retail sales. Activities, whether conducted intermittently or full time, that primarily involve the sale of books, magazines, films, photographs or other materials distinguished or characterized by an emphasis on matter depicting, describing or pertaining to human sex acts or by an emphasis on male or female genitals, buttocks or female breasts, typical of adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcade and adult bookstores.

Agricultural supply and commodities sales. Activities that typically include the sale from the premises of feed and grain, fertilizers, pesticides, herbicides, animal care equipment.

Amusement park. A permanent outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or the sale of items, and buildings for shows and entertainment.

Auto camps. Activities that include the provision of spaces for lodging for transient or semipermanent guests in semipermanent dwelling structures, typically tents, travel trailers, and camper vehicles.

Automotive accessory retail sales. Activities that include the retail sale from the premises of motor vehicle parts and accessories; such activities are typical of firms selling tires, batteries, mufflers, auto glass, and auto upholstery, but excluding tire recapping.

Automotive fleet storage. Activities that include the storage of vehicles used regularly in business operations and not available for sale, typically including overnight storage of rental cars, mobile catering trucks, taxicabs, etc.

Automotive parking. Activities that include the temporary parking of motor vehicles on a fee or free basis within a privately owned, off street parking area, and not the parking of commercial vehicles nor vehicles for sale.

Automotive rental. Activities that include the rental from the premises of motor vehicles, with provision of incidental maintenance service, typically performed by car rental agencies.

Automotive repair/cleaning. Activities that include the major repair or painting of motor vehicles, including bodywork and installation of major accessories as well as the washing and polishing of motor vehicles.

Automotive sales. Activities that include the sale from the premises of motor vehicles, with incidental maintenance; such activities are typical of new or used auto, boat and mobile home dealers.

Aviation field or landing strips.

Banks and financial services. Activities that include the provision of financial services; such activities are typical of banks, savings and loan associations, and credit institutions.

Bar and tavern. An establishment where alcohol and sometimes food is served.

Brewery. "Brewery" is a distillery where beer, wine and alcoholic beverages are brewed.

Building maintenance services. Activities that include the provision, primarily to firms rather than individuals, of maintenance and custodial services, including window cleaning services, disinfecting and exterminating services, janitorial services, and carpet cleaning services.

Bulk liquid fuel storage. Activities that include the storage and pumping of liquid fuel products for wholesale distribution.

Bulk petroleum stations and terminals. This is an industrial land use that is comprised of establishments with bulk liquid storage facilities primarily engaged in wholesaling crude petroleum and petroleum products, including liquefied petroleum gas.

Business supply retail sales. Activities that include the retail sale or rental from the premises of the office equipment and supplies and similar goods primarily to individuals, firms and other organizations utilizing the goods; they exclude the sale or rental of

motor vehicles and the sale of materials used in construction of buildings or other structures; such activities are typical of barber equipment and supply firms, and hotel or office equipment and supply firms.

Business support services. Activities that include the provision, primarily to firms rather than individuals, of services of a clerical, employment, protective, or minor processing nature, including multicopy and blueprint services; they exclude the printing of books, other than pamphlets and small reports for another firm, and the storage of goods other than samples for sale.

CAFO (Concentrated Animal Feeding Operation). Defined in Idaho Code 67-6529C(1).

Car wash. A facility that either is used manually or automatically to wash the exterior or interior of automobiles.

Chemical plant. A "chemical plant" is an industrial facility where chemicals are produced and stored.

Commercial film production. A use whose activities may be conducted intermittently or full time, and which includes the accommodation of motion picture filming and videotape production for commercial distribution.

Commercial recreation. Activities that include profit oriented sports activities performed either indoors or outdoors, which require a facility for conducting the recreational activity; such activities are typical of swimming centers, skating rinks, tennis courts, racquetball courts, golf courses, etc., but does not include riding stables, amusement parks or theme parks.

Communication services. Activities that include the provision of broadcasting and other information relay services accomplished primarily through use of electronic and telephone mechanisms; such activities are typical of television and radio studios and telegraph offices.

Community assembly and cultural/nonassembly. Activities typically performed by, or at the following institutions or installations:

- A. Public meeting halls.
- B. Nonprofit museums, art galleries, libraries, and observatories.

Community education. Community education is a campus based program that provides educational, social, cultural, economic, and workforce development opportunities that meet the diverse needs of the communities it serves. Typical classes may include, but are not limited to, personal enrichment, hobbies, skill building, and career training. Community education can also include establishments for children such as foster care, childcare facilities, kindergartens and public and private schools.

Community organizations. Activities typically performed by nonprofit organizations

whether social, charitable, civic, or professional. This includes organizations such as the chamber of commerce, the Red Cross, labor unions, political organizations, and similar groups.

Construction retail sales. Activities that include the retail sale or rental from the premises of goods and equipment, including paint, glass, hardware, fixtures, electrical supplies and lumber, primarily to individuals rather than firms; such activities are typical of hardware stores.

Consumer repair services. Activities that include the provision, principally to individuals rather than firms, of repair services such as apparel, shoe, upholstery, furniture, and electrical appliance repair services.

Convenience sales. Activities that include the retail sale from the premises of drugs and other frequently needed small personal convenience items such as toiletries, tobacco and magazines, including small grocery stores.

Convenience services. Activities that include the provision, to individuals, of convenience services which are typically needed frequently or recurrently, such as beauty and barber care, and apparel laundering and dry cleaning.

Crematory. A building where bodies are incinerated. Crematories may be an accessory use to a funeral home; however, a crematory may have more intensive impacts than those of the funeral home.

~~Criminal transitional facility. Providing transitional living accommodations for three (3) or more residents who are on probation or parole for a felony. The maximum number and type of offenders, based on the offenses committed, the extent of supervision required, and the length of allowable transition period shall be set by special use permit.~~

Custom manufacturing. Activities that include the production of goods and characterized by direct sale to the consumer, typically involving the manufacture, compounding, processing, assembling, packaging, treatment or fabrication of items that are not massed produced such as the following:

- A. Cameras and photographic equipment, but not film development.
- B. Custom clothing.
- C. Professional, scientific, measuring and control instruments.
- D. Musical instruments.
- E. Handicraft, art objects and jewelry.
- F. Printing, publishing or pattern making.
- G. Sign making.
- H. Custom woodworking or custom metal working.

Department store type retail sales. Activities that include the retail sale or rental from the premises of a wide range of general goods and merchandise primarily for personal or household use, principally including apparel, appliances and sundries; they exclude the sale or rental of motor vehicles, except for parts and accessories; such activities are

typical of department or variety stores.

Dumping, storing, burying, reducing, disposing of or burning garbage, refuse, scrap metal, rubbish, offal ("offal" is the entrails and internal organs of a butchered animal) or dead animals.

Essential public utility services. Activities that include the maintenance and operation of public utilities typical of electric, gas, telephone, sewer and water lines. ~~The following activities and facilities are a~~Also included in this group: are

- A. ~~C~~cemetery support services that are ordinary and necessary for the operation of a cemetery and that do not adversely impact the surrounding neighborhood. A monument company would be typical of a cemetery support service.
- B. ~~Wireless communication facilities.~~

Extensive impact. Activities that typically encompass large areas of land may detrimentally impact certain neighboring areas typical of prisons, airports, large electrical transforming installations, refuse dumps, and military installations.

Extractive uses. Activities that include the on site production of mineral products by extractive methods, typical of the following:

- A. Oil and gas field exploration, drilling and operation.
- B. Subsurface and surface mining and quarrying of metallic and nonmetallic minerals.

Farm equipment sales. Activities that include the sale from the premises of motor driven farm vehicles; such activities are typical of firms selling tractors or harvesting equipment.

Finished goods. Activities that include the storage and wholesale sale to retailers from the premises of finished goods and foodstuffs, typical of wholesale food and apparel supply firms.

Food and beverage sales/off site consumption. Activities that include the retail sales from the premises of food and beverages for off premises consumption; such activities are typical of groceries, markets, liquor stores and retail bakeries. On site consumption seating areas of up to fifteen percent (15%) of the gross floor area may be provided.

Food and beverage sales/on site consumption. Activities that include the retail sale from the premises of food or beverages prepared for on premises consumption; such activities are typical of restaurants and bars.

Funeral services. Activities that include the provisions of undertaking, funeral and crematory services involving the care, preparation and disposition of human dead.

Gasoline sales. Activities that include the sale from the premises of goods and the provision of services normally required in the operation and maintenance of automotive vehicles, including the principal sale of liquid fuel products, the incidental sale of tires, batteries, replacement items, and lubricating services, and the performance of minor

repairs; excluding wholesale sale of liquid fuel products.

General construction services. Activities that include the provision of services typically performed off the premises by building contractors, or by any of the trades involved in construction, typically including earthwork, plumbing, painting, electrical, roofing, carpentry, heating and sheet metal contracting when related to construction and other services. Activities include minor and incidental repair of equipment. Construction services includes structures, yards and facilities.

Government facilities. A building, structure, infrastructure or land that is owned by the public.

Group assembly. Activities that include the provision of cultural, educational, and entertainment services to assembled groups of spectators or participants; such activities are typical of dance halls, theaters, skating rinks and meeting halls.

Heavy industrial. Activities that include the manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of articles or merchandise not usually enclosed in a building that operates in a manner that may degrade the environment in relation to air, water, noise, visual quality, typical of factories that render raw materials to a more usable form, such as steel mills, pulp plants, electricity/generating facilities, gasohol and energy conversion plants.

Home furnishing retail sales. Activities that include the retail sale from the premises of furniture and home appliances, primarily to individuals rather than firms; such activities are typical of furniture and appliance stores.

Home occupation. An accessory activity performed within a living unit by an occupant of the living unit, which is incidental to the residential use of the living unit and is subject to the home occupation regulations set forth herein.

Hospital/healthcare. Activities typically performed by the following institutions:

A. Hospitals and health clinics.

B. Nursing homes, convalescent hospitals, rest homes, and homes for the aged, providing care for three (3) or more residents who require twenty four (24) hour skilled or intermediate care and medical supervision at a lower level than that provided by a hospital. ~~The maximum number of residents shall be set by special use permit where required.~~

~~C. Rehabilitative facilities providing living accommodations, rehabilitation, and twenty four (24) hour supervision for three (3) or more residents who are in a recovery program for alcoholism, drug abuse, or mental illness. The maximum number of residents shall be set by special use permit, where required.~~

~~D. Handicapped or minimal care facility providing twenty four (24) hour care, group dining and supervision for nine (9) or more residents who are:~~

~~1. Physically or mentally handicapped or infirm and who are in need of residential rather than medical care; or~~

2. Capable of taking care of themselves in independent living units, but who prefer personal supervision. ~~The maximum number of residents shall be set by special use permit where required.~~

Hotel/motel. Activities that include the provision of lodging services to transient guests on a less than weekly basis.

Junkyards, automobile graveyards or places for the collection of scrap metal, paper, rags, glass or junk for salvage or storage purposes with the exception of land uses that meet [title 3, chapter 3](#) of this code.

Juvenile offenders facility. Providing twenty four (24) hour care and supervision for three (3) or more children (plus 2 houseparents) who are under the age of eighteen (18) and unrelated to the houseparents, and who have been placed voluntarily or by a state agency, court order or a childcare agency, as a result of a criminal offense. The maximum number of residents shall be set by special use permit, where required.

Laundry services. Activities that include institutional or commercial linen supply and laundry services, as well as diaper service laundries.

Light industrial. Activities that include the manufacturing, compounding, processing, assembling, packaging, treatment, fabrication of articles or merchandise that is primarily indoors, including welding fabrication and repair with an on site operation that will not be significantly detrimental to the environment in respect to air, water, noise, and visual quality; typical of assemblage of appliances, photographic developing, enclosed bottling plants, textile, manufacture, metal fabrication, cabinet shops, plants, tire recapping and food canning, but not processing; lumber, saw and planing mills are included within this category.

Manufacture or storage of explosives or gunpowder with the exception of retail sale of gunpowder for firearms.

Metal powder works. The production and sale of metal powders, metal flakes, metal fibers or nonmetallic powder additives used with these materials, such as graphite or lubricants.

Microbrewery. A brewery producing specialty beer. This may include area for retail sales.

Ministorage. Activities that include the provision of personal, self-service storage facilities, not intended for use by freight handling, shipping, weighing, or trucking services or similar entities; typical of commercial ministorage facilities.

Mixed use. A combination of uses inside a single building or set of buildings on a single parcel, typically a combination of unrelated businesses.

Neighborhood recreation. Activities that include the use of small open spaces for ~~non~~unstructured or passive recreation, typical of neighborhood or ~~vest~~ pocket parks; these parks, which could be publicly or privately owned and maintained, provide for the low intensity recreational needs of the immediate local vicinity.

Outdoor theaters. Outdoor theaters include drive-in movie theaters, stadiums and field houses.

Personal services. Activities that include the provision of informational, instructional, and similar services of a personal but nonprofessional nature, such as driving schools, travel bureaus, and photography studios.

Professional and administrative offices. Activities that include managerial, clerical, consultation and professional, including medical, services for therapeutic, preventative or corrective personal treatment, typically performed by the following:

- A. Insurance and real estate offices.
- B. Architects, engineers, lawyers and accounting offices.
- C. Planning and educational research service.
- D. Doctors, dentists and other healthcare practitioners.
- E. Medical testing and analysis services.
- F. Corporate headquarters, branch offices and data storage centers.

Public recreation. Activities typical of institutionally owned structures or public open space for passive or active recreation programs and life sports that include municipal parks, school playgrounds, public beach.

Recycling plant. A plant for reprocessing used or abandoned materials.

Religious assembly. Activities typically performed at churches, temples, synagogues, and other centers established for the pursuit of religious beliefs; this includes accessory residential uses typical of such religious centers.

Restaurant. An establishment where food and sometime liquor or alcoholic beverages are served for profit.

Slaughterhouse. "Slaughterhouse" is a place where animals marketed for meat are killed humanely and processed; this includes the distilling of bones, fat or glue; glue or gelatin manufacturing.

Solid waste facility or solid waste transfer station. Dumping, storing, burying, reducing, disposing of or burning garbage, refuse, scrap metal, rubbish, offal ("offal" is the entrails and internal organs of a butchered animal) or dead animals.

Specialty retail sales. Activities that include the sale or rental from the premises of particular or predominant types of goods and merchandise primarily for personal or household use; they exclude the sale or rental of motor vehicles, parts and accessories, furniture and major appliances, and materials used in the construction of buildings or



other structures; such activities are typical of apparel, antique, camera and flower stores.

Storage and warehousing. Activities that include the provision of warehousing, storage, freight handling, shipping, weighing, and trucking services; except for the storage of live animals. Typical activities include moving and storage services, public warehouses, trucking firms, and recycling centers.

Tanneries including the tanning, curing or storage of rawhides or skins.

Theme park. An amusement park in which landscaping, buildings, and attractions are based on one or more specific themes, as jungle wildlife, fairy tales, or the Old West.

Unfinished goods. Activities that include the storage and wholesale sale from the premises of unfinished, raw, or semi-refined projects requiring further processing, fabrication, or manufacturing.

Veterinary activities. Activities that include the provision of animal care, treatment, surgery and boarding services, but excluding the boarding of horses or cattle, typically performed by animal clinics, hospitals and kennels, as follows:

A. Veterinary office. Activities that include the provision of healthcare for small domestic animals (such as cats, dogs and rabbits). Such activities are typical of small animal clinics and facilities for which are indoors.

B. Veterinary hospital. Activities that include the provision of healthcare, surgery and boarding services for small and large animals. Facilities for this type of activity generally require boarding facilities and outdoor areas.

Winery. A building or property that produces wine, or a business involved in the production of wine. A winery may include retail sales of wine.

Wireless Communication Facility (WCF). Any facility designed and used for the purpose of transmitting, receiving, or relaying voice and data signals. WCFs include siting areas, transmission towers and antennas.

## **SECTION 12: AMENDMENTS TO TITLE 5, CHAPTER 10, SECTION 7.**

### **5-10-7: VIOLATIONS AND PENALTIES:**

A. Violations And Penalties: It shall be unlawful to construct, reconstruct, enlarge and maintain or use any building or to use any land in violation of any regulation or any provision of this title or the terms of any permit therefor. Any such violation shall be deemed an infraction or a misdemeanor and shall subject the offender to penalties in accordance with section 1-4-1 of this code. Each and every day such illegal erection, construction, and enlargement of, maintenance or use continues may be deemed a separate offense. The city may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this title. No applications for any permits or licenses shall be

reviewed or approved by the city if there is an existing, valid violation of this code, unless the permit or license is to resolve the existing violation.

B. Action By Council Or Property Owner: In case any building is, or is proposed to be, constructed, erected, reconstructed, located, enlarged, changed, maintained or used, or any land is proposed to be used in violation of this title or any amendment hereto, the city council or any adjacent property owner who could be specially damaged by any such violation, in addition to any other remedy provided by law or in this title, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

C. Notice and Order:

1. The code enforcement officer may issue a notice and order to the record owner of the property containing the violation. The notice and order shall contain the following information:

a. The street address and a legal description sufficient for identification of the premises upon which the violation is occurring.

b. A statement of the code enforcement officer containing a brief and concise description of the conditions found to render the building or premises in violation.

c. A statement of the action required to be taken, as determined by the code enforcement officer, in order to bring the property into compliance.

d. The property owner shall have 45 days from the date of mailing of the notice and order, to take such steps as are necessary in order to bring the property into compliance.

e. The notice shall advise that any person(s) having record title or legal interest in the property may appeal from the issuance of the notice and order, in accordance with the procedural provisions set forth in section 5-10-4. The notice shall also indicate that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter, and that an appeal of the notice and order must be in writing and must be received by the city clerk within twenty eight (28) days of the date the notice and order was mailed. The notice shall also advise that failure to appeal or bring the site into compliance will result in the City recording the notice against the property.

2. Service Of Notice And Order: The notice and order, and any amended or supplemental notice and order, shall be mailed to the record owner of the property by certified mail. The failure of the code enforcement officer to serve any person required to be served shall not invalidate any proceedings under this section as to any other person duly served or relieve any person from any duty or obligation imposed on him by the provision of this chapter.

3. Recordation Of Notice And Order: If the code enforcement officer's notice and order is not complied with within 45 days, and no appeal has been properly and timely filed, the code enforcement officer may file in the office of the county recorder, a certificate describing the property and certifying that the property is not in compliance with city code and that the record owner has been notified of the noncompliance. The certificate shall also contain a brief and concise description of the nature of the noncompliance and shall include a statement of the actions required, if any, which must be taken in order to bring the property into compliance.

4. Release Of Notice And Order: Whenever the code enforcement officer has determined that the violation has been corrected, the building official shall file a new certificate with the office of the county recorder certifying that the previously recorded notice and order shall be released and that all required corrections have been made so that the property is in compliance city code.

### **SECTION 13. SEVERABILITY.**

If any provision of this chapter, or its application to any person or circumstances, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or the application of the provisions to other persons or circumstances.

Nothing in this chapter shall be construed as preventing the adoption of more restrictive provisions set forth in other sections of the Dalton Gardens Municipal Code. The more restrictive provisions of the code shall be enforced.

### **SECTION 14. REPEAL OF CONFLICTING PROVISIONS.**

All provisions of the ordinances of the City of Dalton Gardens which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

### **SECTION 15. PUBLICATION.**

Upon passage and approval and publication in one (1) issue of the Coeur d'Alene Press, the official newspaper of the City of Dalton Gardens, Idaho, this Ordinance shall be in full force and effect.

PASSED under suspension of the rules at which a roll call vote was taken at regular meeting of the city council of the City of Dalton Gardens, Kootenai County, Idaho, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
STEVE ROBERGE, Mayor

ATTEST:

\_\_\_\_\_  
VALERIE ANDERSON, Clerk