

## SEWER MANAGEMENT PLAN AGREEMENT

This AGREEMENT made this 13<sup>th</sup> day of April, 2018 between the City of Dalton Gardens, a municipal corporation organized under the laws of the State of Idaho and situated in the County of Kootenai, State of Idaho, hereinafter referred to as "MUNICIPALITY" and Panhandle Health District 1, a health district organized under Title 39, Chapter 4, Idaho Code, with its principal office in the City of Hayden, County of Kootenai, State of Idaho, hereinafter referred to as "HEALTH DISTRICT."

**WHEREAS**, the Health District has legal responsibility for the protection and preservation of the public health under Idaho Code 39-414 and the protection of the Rathdrum Prairie Aquifer from contamination:

**WHEREAS**, the parties hereto desire to maintain orderly population growth in such a manner as to prevent possible contamination to the Rathdrum Prairie Aquifer from septic tank effluent;

**WHEREAS**, the Municipality has the responsibility to protect the health and welfare of its citizens, the Municipality is obligated to meet all applicable local, State of Idaho, and Federal laws, rules, regulation and standards to realize this responsibility.

**WHEREAS**, the Panhandle Health District has adopted Rules and Regulations governing Sewage Disposal on the Rathdrum Prairie effective October 11, 1977 (Modified September 18, 1990):

**WHEREAS**, the parties find need for an agreement that will describe responsibilities and process for implementing public sewer connection to properties in the commercial district.

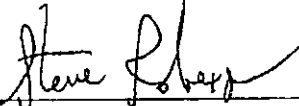
**WHEREAS**, Section 41.01.01.100 of the Environmental Code of District No. 1 provides for adoption of a "sewage management plan agreement";


**NOW THEREFORE**, in consideration of the foregoing and of the mutual covenants and undertaking herein set forth, the parties covenant and agree as follows:


1. The Municipality shall assume responsibility for monitoring and enforcing certain aspects of septic systems use and public sewer connections within its legal boundaries. In particular, the Municipality agrees to fulfill this responsibility in accordance with the provisions of **APPENDIX A**.
2. The Municipality shall not issue any building permits to an applicant until such application is first submitted to the Health District for its approval and is so approved by the Health District. The approval shall be given by the Health District when the application complies with IDAPA 58.01.03 and IDAPA 41.01.01.100 & 110, except as noted in #3 below.

3. In consideration of the foregoing, the Health District agrees to refrain from taking any action in law or equity against the Municipality to enforce Section 41.01.01.110.04c of the Environmental Code of District No.1. In the event the Municipality fails to perform any of its obligations under this **AGREEMENT**, the Health District may proceed promptly in any county of jurisdiction to seek enforcement against the Municipality.
4. The Parties agree to meet at least every fifth year and upon written request of either party, through duly authorized representatives to reexamine this **AGREEMENT** and make recommendations to the governing board of each party as to any modification in the **AGREEMENT** which would be in the public interest. If this **AGREEMENT** is not reviewed every fifth year, then it automatically renews until a review is called for by either party.
5. The Municipality shall provide a map to the Panhandle Health District outlining the city limits as of the date of this agreement, and the area in which the **AGREEMENT** is in effect.
6. Each of the Parties heretofore mentioned recognized its governmental agencies are regulated by the statutes of the State of Idaho. None of the sections are designed to exceed the powers intended; nor shall any particular section be binding if the same is determined to be invalid.
7. This instrument, including **APPENDIX A**, contains the entire **AGREEMENT** between the Parties, and no statement, promise, or inducement made by either Party or Agent of either Party that is not contained in this written contract, including **APPENDIX A**, shall be valid or binding; this contract may not be enlarged, modified, or altered except in writing signed by the parties and endorsed hereon.

**IN WITNESS WHEREOF**, the Parties have executed this **AGREEMENT** effective the day and year first above written.

  
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Steve Roberge, Mayor

 Chair  
Panhandle Health District I  
April 26, 2018

ATTEST:   
Valerie S. Anderson, City Clerk

## APPENDIX A

The City of Dalton Gardens shall maintain ordinances concerning the operation and maintenance of subsurface sewage disposal systems and ordinances governing connection to public sewer in the commercial district, within the Municipality's legal boundaries. The ordinance or ordinances shall substantially include the following and may set forth requirements which may exceed these provisions:

### Regarding Subsurface Sewage Disposal:

1. Residential units shall not exceed one single family dwelling per acre when served by on-site subsurface sewage disposal. Accessory living units are strictly prohibited, in accordance with Section 5-5-1 of the Dalton Gardens Municipal Code. The intent behind this restriction is to limit sewage flow on a single acre to that from a single, immediately related family unit, or to a single rental unit as allowed by the municipal code. Accessory living units are specifically defined in Section 5-1-4 of the Dalton Gardens Municipal Code, and are generally considered to be a separate structure from the principal dwelling with any combination of habitable space, restrooms, bathing and kitchen facilities that would allow for residential occupation of a structure.
2. Notice shall be sent to all property owners requiring them to pump their sewage systems every five years.
3. At the time a septic tank pumping, commercial property owners shall assure that all tank manholes are extended to the surface grade with risers. All new commercial septic systems shall be constructed with tank risers to the surface. If odors may be a concern, care should be taken to use air tight lid construction. Residential property owners with existing systems will be encouraged to install a manhole riser to within six inches of the surface at the time of pumping. The installers of new residential septic systems shall install a manhole riser to within six inches of the surface.
4. All septic pumpers pumping tanks in Dalton Gardens must report to the City the condition, location, size and type of tank and disposal system and date of pumping.
5. Non-domestic wastewater disposal onto the ground or into the ground subsurface is prohibited. Non domestic wastewater is defined as any wastewater that is not produced as sanitary wastewater from restroom facilities, showers or kitchens. Critical materials disposal onto the ground or into the ground subsurface is prohibited. Critical materials are defined as any liquid, semi-liquid, flow able or water soluble solid that is listed on the most current Superfund Amendments and Reauthorization Act, Title III (SARA III) List of Lists published by the Office of Toxic Substances, US Environmental Protection Agency, Washington, DC or is required by the US Occupational Safety and Health Administration to have a material safety data sheet (MSDS).

6. Wastewater flow from commercial properties on a subsurface sewage disposal will not be allowed to exceed 250 gallons per day per acre. Unless a more direct method approved by the Health District is used, flows will be determined by using the winter domestic water meter readings provided by Dalton Water Association.
7. The following enforcement procedures will be utilized in the Commercial District to address wastewater quantity overage issues. Note: It is the property owners and the business license holder's responsibility to correct wastewater quantity overage issues.
  - 7.a. All commercial property owners and business license holders/applicants who own or lease commercially zoned property within Dalton Gardens shall sign a copy of the wastewater restriction document at every new application or renewal. Each property owner and business license holder/applicant shall receive a copy of the water conservation methods brochure. The wastewater restriction document explains the requirements of the Sewage Management Plan Agreement (SMPA) that the Municipality has with Panhandle Health District.
  - 7.b. Wastewater quantity must be in compliance by July 1<sup>st</sup> of each year for the City to be able to issue the standard business license.
  - 7.c. The Municipality will contact commercial property owners and business license holders in writing following the March flow reading, but not later than May 15<sup>th</sup> to inform them of any wastewater quantity overage. It is up to the property owner and business license holders to determine the cause of the wastewater quantity overage. The notice will state that the commercial property is currently in violation of the SMPA and that it is the property owner's and business license holders' responsibility to rectify the wastewater quantity overage and that if not rectified by July 1<sup>st</sup>, the business license holders on the property will be unable to renew their business license and the property owner will be required to summarily connect all wastewater flows to available public sewer, unless the property owner has complied with Section 15 below regarding an extension. The notice shall also contain a copy of the signed wastewater agreement and water conservation methods flyer. NOTE: The Municipality shall notify the Panhandle Health District of any non-compliant commercial property owners.
  - 7.d. Once the commercial property owner has determined the cause of the wastewater quantity overage, the said property owner and business license holders shall take steps to resolve the issue.
  - 7.e. The commercial property owner shall maintain regular contact with the Municipality during the period of determining compliance.
  - 7.f. Once the commercial property owner believes that they have resolved the issue and achieved compliance, the said property owner shall provide proof of wastewater quantity compliance to the Municipality. Proof may be, but is not limited to receipts of plumbing (leaks repaired) or daily/weekly water meter readings. The Municipality shall forward a report to the Panhandle Health District on the progress of the commercial property owner compliance with the regulations. If compliance has been achieved, and all other health district regulations have been met, the Health District will "sign off" on the business license application or renewal.

- 7.g. If the commercial property owner has not achieved compliance by June 15<sup>th</sup>, the said property owner has the option of requesting an extension to achieve compliance. The extension request shall be in writing and considered by the City Council at their July meeting.
8. The Municipality shall enact ordinances setting forth sanctions for non-compliance by a commercial property owner or business license holder; which sanctions shall include, but are not limited to, withholding or refusal to renew a business license until compliance is achieved.
9. All appeals of the interpretation of the Municipality regarding wastewater quantity coverage shall adhere to the procedural requirements of Dalton Gardens Municipal Code Title 5, Chapter 10.

Regarding Connection to Public Sewer:

1. The Municipality shall maintain and enforce ordinances describing when and how connection to public sewer must occur in the commercial district.
2. Specific conditions requiring summary connection of all wastewater flows on a commercial property to the available public sewer shall include the following:
  - a. A failing septic system as defined in IDAPA 58.01.03.003.13.
  - b. The actual or proposed generation of non-domestic wastewater on the parcel.
  - c. Actual or proposed wastewater flow over 250 gallons/day/acre, subject to the provisions contained herein.
  - d. A new structure with plumbing built on the property.
  - e. Parcel subdivision.
  - f. Expiration of the 15 year period for connection: or September 30, 2027 for the commercial district South of Hanley Avenue.
3. The Municipality will invite the Health District to project review meetings. When application for building permit or sewer connection are made, the Health District must receive for file, a site plan and plumbing plan showing all waste water streams connected to public sewer. The Municipality will forward building permit applications to the Health District for signature. The Health District will sign the building permit once they are satisfied that all wastewater streams are shown to be connected on the plan.
4. The Municipality will provide the Health District with a copy of the completed inspection sign-off card and the certificate of occupancy for the project.
5. The Municipality will maintain a complete and accurate record of properties that have been shown to be connected with the positive proof of a signed plumbing inspection card.
6. All connection to public sewer must be followed by abandonment of any unused septic tanks. Abandonment will be administered by the Health District and will consist of the following:
  - a. Disconnection of the inlet and outlet piping.

- b. Pumping of the seepage, with approved disposal.
- c. Filling the tank with earthen material, or
- d. Physically destroying or removing the tank from the ground.