

PLANNING AND ZONING COMMISSION  
MEETING AGENDA  
DATE FEBRUARY 2, 2021  
6:30 p.m. BY THE VIRTUAL LINK BELOW

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<https://global.gotomeeting.com/join/800854357>

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Access Code: 800-854-357

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. IDENTIFICATION OF ACTUAL OR PERCEIVED CONFLICTS OF INTEREST.
5. APPROVAL OF THE AGENDA
6. PUBLIC PARTICIPATION 5 minutes per person.
7. CONSENT AGENDA:
  - 7.1 Minutes of January 5 2021, Minutes of January 19 2021 Continuation Meeting.
  - 7.2 Continue this meeting to February 16, 2021 6:30 p.m. same virtual link.
8. STAFF REPORTS: Short Term Rental Combined Meeting review. Lessons learned. STR doc.
9. ITEMS CONTINUED FROM PREVIOUS AGENDAS
  - REVIEW OF DRAFT SECTIONS OF THE LAND USE CODE UPDATE PROJECT
    - 9.1 Final review of Article 8 Landscaping, Screening and Trees.
    - 9.2 Dolores LUC update for Article 8 - to lead Article 8 Public review.
10. PENDING ITEMS FOR FUTURE AGENDAS:
  - 10.1 Article 12 Outdoor lighting
  - 10.2 Article 6 Site / Structure Standards
  - 10.3 Article 4 Specific Use Standards
  - 10.4 Article 11 Hazards Planning
11. ADMINISTRATIVE:
12. ADJOURNMENT

7.1

**PLANNING AND ZONING COMMISSION  
MINUTES  
DATE: JANUARY 5, 2021  
TIME: 6:30 P.M.**

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- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE; Commissioner Robinson led the pledge of allegiance while Doudy held an image of the United States Flag to his screen.**
- 3. ROLL CALL present: Commissioners Heeney Tucker, Truelsen and Chairperson Robinson**  
  
**Ex- officios present Trustee Watters and Lewis**  
  
**Staff present: Manager Charles, Building Official Doudy, Attorney Kelly, Planner Garvin and Assistant Clerk Swope.**
- 4. IDENTIFICATION OF ACTUAL OR PERCEIVED CONFLICTS OF INTEREST. none**
- 5. APPROVAL OF THE AGENDA** This meeting agenda was amended in the following ways: Add public participation as item 6 and Election of Officers to 6.1. Advance the numbering of the agenda items in order. Amend Item 6 Review of the Consent Agenda to Item 7, 6.2 to 7.2 and include "Continue this meeting to January 19 and January 25, 2021. The meeting on the 19<sup>th</sup> will be a continuation of the ongoing Land Use Code development and the meeting on the 25<sup>th</sup> will be a joint meeting with the Town board of Trustees for obtaining guidance on policy for Short Term Rental Regulations
- 6. PUBLIC PARTICIPATION**
  - 6.1. ELECTION OF OFFICERS** Commissioner Tucker nominated Linda Robinson for Chairperson and Dan Heeney for Vice-Chairperson Commissioner Truelsen Seconded the nomination.  
  
**Yes: All**  
  
**No: none**
- 7. 7 REVIEW OF THE CONSENT AGENDA,**

**7.1. Approval of Minutes for December 1, 2020 Regular Meeting and the Minutes for December 15, 2020 Continuation Meeting.**

**7.2. Continue this meeting to January 25, 2021 6:30 p.m. via virtual link, to be announced on the agenda, to Meet Jointly with the Town Board of Trustees concerning proposed Short Term Rental Regulations and also hold continuation meeting on January 19, 2021 to which all agreed.**

Commissioner Tucker moved and Commissioner Heeney seconded to approve the consent agenda with the amendment to the December 1, 2020 minutes which is to strike the comment "Staff feels this section is government overreach" replace with "Staff has concerns for enforcement of items of tree preservation which might be problematic."

**Yes: All**

**No: none**

**8. REMOVED CONSENT AGENDA ITEMS: none**

**9. STAFF AND ADMINISTRATIVE: Review agenda for January 25, 2021 joint meeting/workshop with Town Trustees regarding STRs.** Manager Charles gave a brief history of the Short-Term Rental Regulation. The subject was first discussed in November of 2019. In March of 2020 Building Official Doudy attended a conference in which Short term Rental regulation information was presented. Planner Garvin and staff developed the initial regulations. Planning commissioners and ex-officios reviewed the regulations and discussed many of the items. The Commission received comments from local Short Term Rental owners and in response to the concerns of the owners made some retractions of several standards in the regulations. The items retracted were: Hosted, changed to un-hosted with a representative, proof of insurance required changed to not required, limit one per block was changed to no limit perm block. The total number allowed in Dolores which was decided by the Commission remained at 30. Manager Charles recommend the commission seek policy guidance from the Board of Trustees and proceed to public review as soon as is practical.

**10. ITEMS CONTINUED FROM PREVIOUS AGENDAS**

**10.1 Article 6- Site Layout and Structure Design Standards.** Discussion of storm water management standards led to Planner Garvin proposing to make changes to the standards and put a lot of the standards in the site development standards for new development and include a case-by-case review. Included in the revision would be a security bond in an amount equal to the cost of storm water management construction. Discussion of design standards settled on reducing the design elements that are currently listed in the 1997 code. Planner Garvin will focus the standards more on scale and relationship to existing development.

**10.2 Article 8 - Draft landscape plan submission requirements.** This addition to Article 8 was reviewed by the Commission and the entire article will be set for finalization at the January 19, 2021 meeting.

**11. NEW BUSINESS:**

**11.1. Discussion of Dark sky standards.** Planner Garvin spent some time explaining the Dark Sky regulations. The Commission expressed interest in pursuing standards that retain or increase dark sky affects in Dolores. New development will be following stricter standards than some of the existing development with the standards built into the proposed Article 12 Outdoor Lighting (currently in the Marijuana zoning regulations recently adopted by the Town Board.)

**11.2. Article 4 - Use specific standards with wind/solar/geothermal standards built in.** Planner Garvin explained the addition of solar, wind and geothermal standards to Article 4 Use Specific Standards. Detail on the individual levels of energy capture was reviewed.

**12. PENDING ITEMS FOR FUTURE AGENDAS**

**12.1. Subdivisions, Procedures, Hazards...**

**13. ADJOURNMENT**

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**Linda Robinson, Chairperson**

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**Ann Swope, Assistant Clerk**

**MINUTES  
PLANNING AND ZONING COMMISSION  
DATE JANUARY 19, 2021  
6:30 p.m. BY THE VIRTUAL LINK BELOW**

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1. **CALL TO ORDER:** Chairperson Robinson called the meeting to order at 6:31 p.m.
2. **PLEDGE OF ALLEGIANCE:** Attendees of the meeting recited the pledge of allegiance while Building Official Douady held an image of the United States flag to his screen.
3. **ROLL CALL:** Commissioners present: Chairperson Robinson, Vice Chair Heeney and Mark Tucker.  
  
Ex Officios present: Trustee Watters and Trustee Lewis  
  
Staff present: Manager Charles, Attorney Kelly, Building Official Douady, Planner Garvin and Assistant Clerk Swope  
  
Absent: Commissioner Truelsen
4. **IDENTIFICATION OF ACTUAL OR PERCEIVED CONFLICTS OF INTEREST.** No declarations of conflicts were made.
5. **APPROVAL OF THE AGENDA:** Vice Chairperson Heeney moved and Commissioner Tucker seconded to approve the agenda. A show of hands was made to carry the motion.
6. **PUBLIC PARTICIPATION 5 minutes per person.** No comments or questions from the public, although Commissioner Tucker relayed a phone conversation he received from a citizen who asked him to be sure the local Short-term Rental owners were collecting and distributing the local lodging tax and proper sales tax.
7. **STAFF REPORTS: Discuss the joint meeting on January 25, 2021.** Manager Charles presented an outline he created to help guide the two decision-making bodies in achieving the goals identified in the outline. These goals are:
  - Determine Town Board preferences
  - Seek advice on the policies that guided the development of the regulations, and

- Whether we can move forward to an ordinance or forward with a larger public participation process with the greater community.

This outline was received positively by the commission. Concerns were expressed about public awareness of the subject. Commissioners have received feedback from community members that the information was hard to find and the website was hard to use. Other means of advertising such as the local radio stations and the local "Say What" media service may be used to call the community to the discussion.

Other items in the outline were the purpose of the regulations, and a history narrative of the questions that were asked to the Commission by the staff regarding the purpose of the regulation.

## **8. ITEMS CONTINUED FROM PREVIOUS AGENDAS**

### **REVIEW OF DRAFT SECTIONS OF THE LAND USE CODE UPDATE PROJECT**

#### **8.1 Final review of Article 8 Landscaping, Screening and Trees. Send to public review.**

Commissioner Tucker suggested to the Planner Garvin that some incentive to save water and other resources be included in this Article. The Dolores area is currently experiencing extreme drought and might need to enforce conservation efforts in the future even though the town has adequate water production for the current population. The commission considered the choice of policy or regulation and leaned toward policy with educational material as a supplement. They thought the policy could be integrated into the purpose of the Article. Commissioner Tucker asked for better clarification in the Article in Section regarding the undeveloped space from a property line to the improved surface of the street right of way. It was decided to refer the reader to Title 8 of the Municipal Code which assigns responsibility to the property owner to maintain weeds, trash and rubbish on surfaces to the street and to the middle of the alley adjacent to their property line. The Commission reviewed the Landscape Plan Review. Some discussion of whether the commission would review the plan or if it would be a staff duty. Planner Garvin and Attorney Kelly will research the impact on the Commissioners role as Board of Adjustments if they get the duty. The plan includes a set of criteria for a landscape plan that may require the applicant to hire a professional to make the site plan. Commissioner Tucker suggested adding a requirement for Certified Weed Free landscape materials and Garvin will add "native and naturalized species" to the preferred plant material statement. The Commission talked about exempting small scale projects from the performance bond requirement. These criteria will be enforced on the larger development projects and commercial development. This article will be revised one more time and offered to the Commission in February before sending out for public review.

In other business Commissioner Heeney requests the Building Official prepare a monthly report for the Planning and Zoning meetings going forward. The purpose is to keep informed of all development within the town. Building Official Doudy says he can prepare a report for them.

**8.2 Final review of Article 6 Site/Structure Standards Section send to public review.** Planner Garvin has revised this Article to reflect the Commissioner's and Staff's feedback concerning design standards and water management. In summary the design standards were reduced to just the front face of the structure for residential development and water management is now in site development standards for new development. The Commission wants to see an "applicability" section in the residential standards section and the identification of the applicable zone. In section A. Residential Design Standards, the sentence in item 3 b. for 15% minimum coverage of window area on the front of the residence is to be removed but item 3 c. "Garage doors for attached garages on the front facade shall not exceed 40% of the total width of the front façade" will remain. The subdivision standards have become part of the site development standards in this revision and applies to zoning permit applications and site development permit applications. The Commission will evaluate the site development standards and relay comments to Planner Garvin in the next few days.

**8.3 Review updated Article 12, Outdoor Lighting send to public review. Sent to the next meeting for consideration.**

**9. NEW BUSINESS:**

**9.1. Review of Article 4 - Use Specific Standards.** This item will be reviewed at the February 2, 2021 meeting.

**10. ADMINISTRATIVE: none**

**11. ADJOURNMENT:** Chairperson Robinson adjourned the meeting at 8:35 p.m.

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Linda Robinson, Chairperson

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Ann Swope, Assistant Clerk

## Dolores LUC Update

### Short Term Rentals Draft Regulations Lessons Learned

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The joint meeting the Trustees brought up some interesting conversations and highlighted different understandings in thinking about regulations. This is a good (and timely) opportunity to think about how similar conversations might go with the LUC adoption later this year. Let's take some time at the 02/02/21 meeting and talk through the following issues and decide how we want to use any of our lessons learned as we move forward.

1. Was the P&Z Commission confident that the draft was ready for discussion with the Trustees?
  - a. If not, what were you not confident about?
  - b. What else should P&Z have done with the draft STR regulations before the joint meeting?
  - c. Should P&Z vote or otherwise confirm that a draft is "ready"?
2. There were regulations in the draft that did not have support of all of the P&Z members. That outcome can be anticipated for more than one thing in the full LUC.
  - a. How does P&Z want to handle a difference of opinion among members?
  - b. If P&Z members disagree about an idea or draft language but don't express their disagreement, should P&Z try to use a straw poll to get an idea for where all of the members are?
  - c. How does P&Z want to come to consensus or a final decision in P&Z meetings?
3. Short-term rental owners pushed back on the public draft early and the public expressed their opinions later. These groups have different concerns.
  - a. How does P&Z want to take in and assess public feedback and new information related to a public draft regulation?
  - b. How does P&Z want to work internally to determine whether a draft regulation should be changed based on:
    - i. One person's opinion
    - ii. One group's opinion
    - iii. One Trustee's feedback
    - iv. Multiple Trustees' feedback
    - v. P&Z members changing their minds (or who didn't like something about the draft to start with)
    - vi. Changed information about the topic (e.g., we learn that oak trees are actually Martian spies)
4. Thinking about the course of the STR conversation so far, what feedback and concerns should we anticipate about the draft landscaping regulations before going public with a draft:
  - a. From (1) the public and (2) the development community:
    - i. Who don't like specific changes
    - ii. Who are concerned about "overregulation"
  - b. Have we made anything too hard?
  - c. Have we made anything too easy?
  - d. Can we answer the following questions:
    - i. How will the Town review the regulations applied to a project,
    - ii. How will the Town enforce the regulations applied to a specific property?
    - iii. Why is this regulation important to Dolores' future?



**Dolores Draft Short-Term/Vacation Rental Regulations 04.30.20 January 26, 2021**

- A. Purpose ..... 21
- B. Applicability ..... 2
- C. Where Permitted ..... 32
- D. Generally Applicable Requirements ..... 3
- E. Short-Term Rental Permit ..... 64
- F. Enforcement, Violation, and Penalties ..... 86

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**Definitions [will be moved to LUC Definitions section]:**

**Booking Service:** Any person or entity that facilitates short-term rental reservations and collects payment for lodging in a short-term rental.

**Short-Term Rental Guest (Guest):** A person who occupies a room in a hotel, motel or tourist court as well as a bed and breakfast or short-term rental for a period less than 30 days.

**Long-Term Tenant:** A person who occupies land or property rented from a property owner for 30 days or longer.

~~Owner-occupied: For the purposes of this section, a residential dwelling unit that is the owner's primary residence and where the owner lives for the majority of a calendar year, that is 180 days or more.~~

**Party House:** A residential dwelling unit, including all accessory structures, that is rented or used for the purpose of hosting a social, business, or commercial event that is open to more people, either as private invitees or members of the public, than the maximum unit rental capacity calculated at 2 adults per bedroom.

Commercial space is a structure with an established occupancy for commercial use in a designated commercial zone.

**Short-Term Rental (STR):** the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of 30 consecutive days or less to a transient guest.

**Short-Term Rental, Primary Use:** A dwelling unit that is not owner-occupied and is primarily used or made available for short-term rentals.

**Short-Term Rental, Accessory Use:** A dwelling unit that is owner-occupied and made available for short-term rentals on a periodic basis.

**Short-Term Rental Unit:** A residential dwelling unit, or portion of such a unit, that is rented by a transient guest for compensation or consideration for less than 30 days at a time; does not include dwelling units owned by the federal government, the state, or the Town, or any of their agencies, or facilities licensed by the state as health care facilities.

**Street Segment:** A portion of a street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end.

Commented [A2]: Add definitions for HUD housing and another for Multifamily structure.

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**A. Purpose**

The purpose of the short-term rental unit permit program is to:

1. Maintain the character of residential neighborhoods in Dolores;
2. Preserve ~~and expand the availability of~~ long-term rental residential properties for the residents of Dolores and surrounding local communities;
3. Facilitate the permitting of short-term rental units subject to appropriate restrictions and standards;
4. Allow for varied accommodations and experiences for visitors;
5. Establish a [licensing/permitting] system to ensure that all taxes, fees, and fines related to short-term rentals are both assessed and current;
6. Map the location of short-term rental properties within the community with the purpose of measuring their concentration and impact in order to reevaluate the effectiveness of these regulations on a regular basis.
- 6-7. Ensure the safety of quests and occupants.

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**B. Applicability**

1. It shall be unlawful for any person to operate any short-term rental unit without a valid short-term rental permit, as approved pursuant to Section xx. *[application process included below, will be moved to administrative procedures]*
2. The short-term rental permit shall be issued to the specific owner of the property and does not run with the property. The permit shall not be transferred or assigned to another individual, person, entity, or address but may be managed by a third party on behalf of the owner.
3. A short-term rental permit shall only be issued to:
  - a. A natural person whose name appears on the deed of the property;
  - b. A trust, if the beneficiary of the trust is a natural person; or
  - c. A not-for-profit corporation licensed pursuant to Section 501(c) of the Internal Revenue Code.
  - e-d. Limited Liability Company or a closely held corporation with five or fewer members or shareholders who are natural persons.
4. ~~Proof of primary residence will be required. This can be shown by one of the following: valid driver's license or state I.D. card, valid vehicle registration, military I.D., conceal carry permit, or dependent's school registration. Mail does not count as proof of residency.~~
5. Nothing in this section shall limit the ability of a property owner; property covenants, conditions, and restrictions (CC&Rs); homeowners' association or similar association from prohibiting or further limiting the short-term rental of property where the authority to do so exists.
6. Nothing in this section shall prohibit the operation of a hotel, motel, or bed and breakfast inn where such use is permitted.

**C. Where Permitted**

**1. Located in an Owner-Occupied Dwelling Unit**

~~Short-term rentals are limited to the accessory use of an owner-occupied dwelling unit. Short-term rentals are not permitted as the primary use of a dwelling unit.~~

Where we designate what zones STRs can be located. Any?

Commented [DD3]: This items needs to be decided  
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**2.1. Located in a Habitable Structure**

Short-term rentals shall be located in a habitable structure that complies with the Dolores LUC and applicable Town building and life safety codes and shall not be located in:

- a. Non-residential areas within buildings or accessory structures (e.g., shed, garage),
- b. Commercial (office/retail) or industrial (warehouse) spaces, or
- c. Outdoors in a temporary structure (e.g., tent, yurt, treehouse, or other similar structure) or in a recreational vehicle, mobile home, travel trailer, commercial or passenger vehicle or trailer, or any portable storage unit.

**3.2 Maximum Number of Permits**

- a. A maximum of 30 short-term rental permits will be issued in Dolores for any one year period. In any year where the maximum number of permits has been issued, whether new or renewal, no additional permits will be issued.
- b. Short-term rental permits may be distributed as follows:
  - i. In residential districts: one permit per street segment, one permit per structure.
  - ii. In mixed-use and commercial districts: one permit per structure.
- c. A short-term rental permit may not be issued for a permanently affordable dwelling unit.

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**3. Number Limited to Street Segment**

~~a. A maximum of one (1) STR per street segment is permitted~~

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Commented [A6]: Add definition for affordable dwelling unit HUD designation.  
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**4. Pre-Existing Primary Short-Term Rentals**

~~Property owners with non-hosted short-term rental units that pre-existed the adoption of this section will be able to request a determination of pre-existing use. If the short-term rental use is found to be pre-existing, the property owner may apply for a short-term rental permit and will have a one-year grace period to convert the property to hosted rental status or remove it from the short-term rental market.~~

Commented [DD7]: This item needs to be decided, Do we want one per street segment? Or two, or some other number? Do we want one per side of street segment, or some distance apart or do we want no limits?  
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**D. Generally Applicable Requirements**

**1. Use**

- a. Short-term rentals shall be used for lodging purposes only.
- b. A short-term rental may not include simultaneous rental to more than one party under separate contracts.

- c. Use of the short-term rental unit as a party house for any commercial or large social events or gatherings, such as weddings, is prohibited. These uses may be permitted through the Town’s temporary use permit or special event process.
- d. Overnight guest occupancy for short term vacation rentals shall be two (2) persons per sleeping room or guest room on the main level of the house and/or the upper floor(s), plus two (2) additional renters overall, up to a maximum occupancy of no more than eight (8) persons. Any sleeping room located in the basement of the house may only be occupied Section 7.01 – Residential Use Standards 7-9 | P a g e by the home owner or primary resident(s) but not the guests. THIS WOULD ADDRESS PARTY HOUSES
- e. . During the daytime, maximum number of total guests and visitors allowed at any time in a short term vacation rental shall not exceed the maximum overnight occupancy plus six (6) additional persons per property, or fourteen (14) persons, whichever is less.

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Commented [A8]: Maybe waive persons under age 10 or 12?

Commented [DD9R8]: Building codes do not care about age and kids are the most vulnerable

**2. Noise**

- a. Quiet hours shall be from 10:00 p.m. to 7:00 a.m. and no outside assembly of more than the maximum overnight occupancy shall be permitted during this period.
- b. Outdoor amplified sound (microphone or speaker system) shall not be allowed at any time. This provision does not apply to casual music from personal music devices or similar situations that are typical of residential surroundings.
- c. Pets if allowed by owner shall be secured on the property at all times. Continual nuisance barking by unattended pets is prohibited.

**3. Outdoor Fire Areas**

- e. Outdoor fire areas, when not prohibited by state or local fire codes, may be allowed but shall be limited to three feet in diameter, shall be located on a non-combustible surface, shall be covered by a fire screen, and shall be extinguished as soon as it is unattended or by 10:00 p.m. whichever is earlier.

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**2.4. Taxes and Insurance**

- a. The owner shall obtain a business license from the Town of Dolores.
- b. The owner shall be responsible for payment of all applicable sales and lodging taxes.
- c. ~~Does the town require proof of property liability insurance from other uses i.e motels The owner shall maintain and provide proof of property liability insurance covering the short-term rental in the amount of not less than \$500,000, or provide proof that property liability coverage in an equal or higher amount is provided by any and all hosting platforms through which the owner will rent the short term rental unit. Proof of liability insurance is not required if short term rental reservations are handled exclusively by hosting platforms (websites) that extend liability coverage of not less than \$500,000 under terms acceptable to the Zoning Administrator.~~

Commented [DD10]: Liquor and Marijuana occupancies are required to provide proof of liability insurance

**3.5. Advertising**

All short-term rental advertising shall include the Dolores Short-Term Rental Permit (Permit) number and the maximum unrelated occupancy permitted in the unit pursuant to the currently adopted International Building Code or International Residential Code, as applicable.

**4.6. Health, Safety, and Code Compliance**

- a. Short term rental units must remain compliant with all zoning, parking, building, fire, noise, and other applicable Town codes.
- b. The short-term rental unit shall be equipped with operational smoke detectors, carbon monoxide detectors, 2A:10B:C fire extinguisher, and other life safety equipment as may be required by the Town.
- c. Parking in private driveways shall be utilized first with overflow parking on the street where permitted. Parking on-site in non-driveway areas (e.g., setbacks or yards) shall be prohibited. Where on-site parking is not available, the property owner shall instruct the renter where to find the closest legal parking, which may include on-street parking.
- e.d. ~~Should we consider this~~ "Parking shall be provided to accommodate one (1) space per the dwelling unit plus one (1) space for each occupied sleeping room or quest room with a minimum of ~~two~~One (2) offstreet parking spaces provided. Any on-street parking, where appropriate, shall be limited to no more than ~~one~~Two (2) parking space".
- e.e. The owner shall maintain weekly trash collection services. Garbage/refuse containers shall not be left out at the collection point 24 hours after collection and property shall be free of trash and debris.

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**5.7. Contact Information and Renter Notifications**

- a. ~~During the term that a short-term rental unit is occupied by a short-term tenant, the owner and/or the local contact person designated by the owner shall be available 24 hours per day, 7 days per week, for the purpose of responding within one hour to complaints regarding the condition or operation of the short-term rental unit or the conduct of short-term tenants. If the local contact person designated by the owner changes, then the owner shall update the permit on file within three business days. Local contact and guest information: Each vacation rental shall have a designated local contact person(s). The local contact may be a property management/real estate company, rental agent or other person engaged or employed by the owner to rent, manage or supervise the vacation rental. A property owner may designate themselves as the local contact person if the owner meets the criteria of this section. The local contact must reside within a twenty minute (20) drive of the rental property and be available twenty-four (24) hours a day 365 days a year during tenancies for timely response to guest and neighborhood questions and concerns. An alternate local contact shall be designated, available and meet the criteria of this section when the primary is not available. All local contacts shall list their name, address and telephone/cell number and it shall be posted in a prominent location within the vacation rental and the contact information shall also be provided to the Town of Dolores on the application for a short term rental. Any change to the contact(s) name, address or telephone/cell number shall be submitted to the Town within twenty-four (24) hours.~~
- b. Each rental unit shall also display the following information in a prominent interior and easy to access location:
  - i. The short-term rental permit number.
  - ii. Local contact information and emergency safety information along with non-emergency contact numbers for police, fire, and ambulance services.
  - iii. A copy of the Dolores Short-Term Rental Regulations.



- iv. Site-specific instructions about parking locations and trash pick-up.

**E. Short-Term Rental Permit**

**1. Application Contents**

Commented [A12]: Insert fee information.

In addition to any other information prescribed by the Zoning Administrator, an application for a short-term rental permit shall include the following information:

- a. Contact information for the owner of the property.
- b. ~~Local contact and guest information: Each vacation rental shall have a designated local contact person(s). The local contact may be a property management/real estate company, rental agent or other person engaged or employed by the owner to rent, manage or supervise the vacation rental. A property owner may designate themselves as the local contact person if the owner meets the criteria of this section. The local contact must reside within a twenty minute (20) drive of the rental property and be available twenty-four (24) hours a day 365 days a year during tenancies for timely response to guest and neighborhood questions and concerns. An alternate local contact shall be designated, available and meet the criteria of this section when the primary is not available. All local contacts shall list their name, address and telephone/cell number and it shall be posted in a prominent location within the vacation rental and the contact information shall also be provided to the Town of Dolores on the application for a short term rental. Any change to the contact(s) name, address or telephone/cell number shall be submitted to the Town within twenty-four (24) hours. Contact information for the owner's agent with access to the dwelling unit, and authority to fix any problems or violations of this chapter, who is available twenty four hours a day, seven days a week, at a phone number provided to both the Town and any person staying at the property to answer calls from the Town, an agent authorized by the Town to make such calls, or a person who is renting the property.~~
- c. Attestation and agreement to comply with the requirements of this section.
- d. Identification of all dwelling units that will be rented on a short-term basis.
- e. A zoning development permit with confirmation of a passed building, fire, and life safety inspection.
- f. The URL (i.e., the website address) and names of any booking services for any and all advertisements of the short-term rental of the property.
- g. Attestation that short-term rental of the property is not prohibited by Covenants, Conditions and Restrictions (CC&Rs), or rules or restrictions of a homeowners' association or similar association, and that applicant has notified such association that the property owner is applying for a short-term rental permit. Proof of notification must be retained for the duration that the applicant maintains a short-term rental permit for the property.
- h. If seeking a short-term rental permit in a multifamily structure, contact information, including a phone number, for all tenants. Copies of the leases for all tenants, and proof of ownership of entire building must be provided within 10 days of a request for such information.

**2. Review**

Short-Term Rental Regulations

P&Z Working Draft

The Zoning Administrator shall review an application for a short-term rental permit for compliance with these regulations. The Zoning Administrator shall not approve an application for a short-term rental permit (or renewal of such permit), or may revoke such permit, if any of the following findings are made:

- a. The applicant has not paid all applicable taxes due for the short-term rental or property on which it is located.
- b. The property has any outstanding code enforcement violations.
- c. The property does not comply with all applicable codes regarding fire, building and safety, and other relevant laws and ordinances.
- d. The applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application, or in any report or statement required to be filed that is related to the application.
- e. The property that is the subject of the application is not in a condition where it may be immediately rented on a short-term basis consistent with the requirements of these regulations.
- f. The property has received more than two citations for violation of the Land Use Code, parking, noise ordinance, or outdoor lighting regulations within a period of 12 consecutive months.

**3. Notice of Approval**

When a short-term rental permit is approved, the Zoning Administrator shall provide, at the owner's expense, the contact information for the owner's agent to all dwelling units adjacent to or across the street from the parcel boundary.

**4. Duration and Renewal**

- a. Short-term rental permits shall be issued for one year and must be renewed annually.
- b. An application to renew a short-term rental permit must be received by the Zoning Administrator not less than sixty days prior to the expiration of the short-term rental permit.
- c. Applications for renewal shall be in a form required by the Town and shall include updates of all information required or submitted for the permit.
- d. No permit shall be renewed unless all Town fees and taxes owed by the applicant are paid in full, including the renewal fee.
- ~~e. Applications for renewal shall include a passing annual fire/life safety inspection conducted by the town Building Official.~~

**5. Effect of Denial or Revocation**

- a. If an application for a short-term rental permit (or an application for renewal of such permit) is denied, the Zoning Administrator shall not approve a new application for that applicant and location for a 12-month period after the denial unless the Zoning Administrator determines that the reason for the denial has been cured and no longer exists. An applicant who has requested review based on cured circumstances but who is then again denied must wait the full 12-month period following the cured circumstances request before submitting a new application.
- b. If a short-term rental permit is revoked, the short-term rental of the property must cease immediately and shall not be permitted for a period of 12 months from the date of revocation.
- c. The short-term rental of property (or advertisement or offer of such rental) after denial or revocation of a short-term rental permit shall result in the property and applicant being ineligible to conduct the short-term rental of property (or apply for a short-term rental permit) for an additional six month period for each such rental; such period is in addition to the prohibitions listed in sections (a) and (b) above.
- d. No fee refunds shall be issued to any permittee whose short-term rental permit is revoked.

---

**F. Enforcement, Violation, and Penalties**

- 1. In addition to the other penalties and remedies available to the Town, violations of this section shall be subject to a fine of \$ 500 per day or violation.
- 2. The short-term rental permit holder shall be held responsible for citations for violations of the municipal code committed by persons at the property during a period when the property is rented on short term rental basis.



# Article 8: Landscaping, Screening, and Trees P&Z Review Draft



Dolores Land Use Code Update  
January 2021

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## Article 8: Landscaping, Screening, and Trees

### A. Purpose

This section is designed to provide standards for the installation and maintenance of landscaping, walls, and screening devices to promote the general welfare of the community. This is accomplished by:

1. Enhancing the appearance of all development by providing standards for the quality, quantity, and functional aspects of landscaping and buffering.
2. Decreasing the use of water for landscaping purposes by encouraging the use of drought-resistant, low-water native and naturalized plant materials require less water than do non-native or naturalized plants and therefore are preferred for required landscaping. that thrive in the regional soil types and environmental conditions in planting zone 4 in southwestern Colorado;
3. Preserving healthy environmental conditions by providing shade, air purification and oxygen generation, groundwater recharge, stormwater runoff retardation, water quality treatment, and noise, glare, and heat abatement through the preservation of established trees and installation of landscaping;
4. Encouraging the replanting of trees and vegetation lost to land development activity to provide heat abatement, wind deflection, and support and increase property values;
5. Improving the quality and diversity of plant and tree selection through the implementation of landscape standards and specifications;
- 1-6. Encouraging the creation of an attractive appearance along streets and by screening from view those uses that may be unattractive to the public eyevuew;
- 2-7. Using landscaping materials, including ground covers, shrubs, and trees that facilitate the control of erosion and the reduction of glare and dust, ~~as well as the visual softening of building masses; and~~
3. ~~Walls and screening devices allow for the separation of incongruous uses and for the buffering of intensive activities.~~
8. ~~Landscaping, walls, and screening devices together, help to effectuate privacy, logical development, and enhancement of property values. Requiring long-term maintenance including the removal of weeds and the timely replacement of landscape components lost after installation.~~

### B. Applicability

#### 1. New and Complying Development

This article shall apply to all new development unless otherwise specified in an individual subsection. .

#### 2. Redevelopment: Expansion, Enlargement, and Nonconformities

- a. When landscaping would otherwise be required for new development, this article shall apply a proportionate requirement to redevelopment, defined for this article as whenever any building is enlarged in height or in ground coverage, as follows:

- (1) Minimal Change. Square footage changes that increase the total gross floor area of a structure by less than 10 percent, as determined by the building permit application, shall not be required to provide additional landscaping.
  - (2) Proportionate Change. Square footage changes that increase the total gross floor area of a structure by more than 10 percent but less than 75 percent, as determined by the building permit application, shall require a corresponding percent increase in compliance with landscaping standards until the site reaches compliance.
  - (3) Full Compliance. Square footage changes that increase total gross floor area of a structure by 75 percent or greater, as determined by the building permit application, shall be required to fully comply with these standards.
  - (4) Measurement is based on changes to an individual structure that is subject to improvements, regardless of the total number of structures on the site.
- b. Any application by a property owner to expand or replace part of an existing structure shall remain on record for five years from the date of work completion. Any subsequent application by the same property owner(s) to expand or replace part of an existing structure shall be cumulative to any requests made within the previous five years. The cumulative total shall be used by the Town to determine the property owner's necessary level of compliance.

**3. Existing Development**

Existing development shall comply with the requirements of this article unless otherwise specified or exempted in an individual subsection.

**C. Landscaping**

**1. Applicability**

- a. This section identifies three types of landscaping, located generally as identified in Figure 8-1 and applicable to new development and redevelopment as identified in Table 8-1, below:

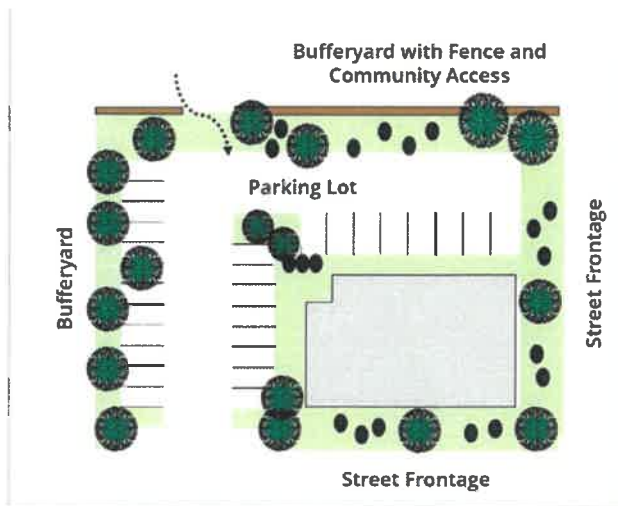


Figure 8-1: Illustrated location of different required landscape types

**Table 8-1: Landscaping Applicability**

Landscape Type	Section	R-35, R-10	LLR-1, LLR-2, NR-1	NR-2, NR-3, MHP	NMU, DMU, HMU	P-2	IND
<b>Key: ✓ = Applicable, ✗ = Not Applicable</b>							
Street Frontage	8.C.1	✗	✗	✓ All districts and uses located on a public street			
Bufferyards	8.C.2	✗	✗	✗	✓	✓	✓
Parking Lot Landscaping	8.C.3	✗	✗	✗	✓ Any parking lot with 10 or more spaces		
Tree Protection	8.E	✓	✓	✓	✓	✓	✓

- b. A property or development site may have more than one type of required landscaping. Each type of landscaping is calculated separately. One type of required landscaping may not be calculated toward nor substituted for the provision of a different type of required landscaping. For example, street frontage landscaping may not be calculated toward off-street parking lot landscaping

**2. Street Frontage Landscape Area Standards**

**a. Applicability**

All undeveloped areas of Any a front or side-street yard (“street frontage”) of each lot or tract and any adjacent right-of-way on the private property-side of a sidewalk shall be landscaped according to this section.

**b. Dimensions**

(1) The minimum depth of the street frontage landscape area shall be 10 feet, measured inward from the property line.

(a) Where a sidewalk is installed or required the depth shall be measured from the inside edge of the sidewalk.

(a)(b) A property owner may provide landscaping between the right-of-way and a sidewalk in addition to required street frontage landscaping. All property owners shall maintain the area between the right-of-way and a sidewalk pursuant to Dolores Municipal Code Section xx.xx.

(2) Street frontage landscape areas may be located within required zone district yards and required setbacks.

**c. Plant Materials**

(1) The street frontage landscape area shall be planted in 75 percent organic materials. The remaining 25 percent may be covered in inorganic materials.

(a) Turf grass or other material that requires regular mowing may not be planted in street frontage landscape areas in mixed-use or non-residential districts.

- (b) Smooth concrete or asphalt surfaces are not considered landscaping.
- (2) One tree, with a minimum two-inch caliper, shall be planted per 35 linear feet (or fraction thereof) of required street frontage landscaped area.
  - (a) Required trees shall be spaced at least 35 feet apart.
  - (b) Access driveways shall not be subtracted from calculations of the amount of street yard landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining landscaping area.
- (3) Generally applicable plant materials standards are located in Section 8.D.
- (4) Street tree species shall be chosen from the list in Appendix A.
- (5) The use of coniferous trees is not permitted in street frontage landscape areas.

### **3. Bufferyards**

#### **a. Applicability**

- (1) When made applicable by new development or development change as described in Section 8.B, the exterior boundary of a lot that adjoins or is located across an alley from a different zone district, structure, or use, and that does not adjoin a public street right-of-way, shall meet the bufferyard requirements shown in Table 8-3, below.
- (2) A lot may require both street frontage landscaping and bufferyards depending upon the types of surrounding development.
- (3) In the DMU district, the requirements of this section shall be accommodated to the maximum extent feasible. The bufferyard design may be adjusted by the Zoning Administrator to accommodate the space available on the lot.
- (4) There are three types of landscaping bufferyards identified in Table 8-2 that are intended to accomplish the following:
  - (a) B1: Visual Enhancement is intended to create a partial visual separation between uses or districts.
  - (b) B2: Filtered Screen is intended to create a semi-opaque visual separation between uses or districts.
  - (c) B3: Screened Separation is intended to provide both space and a partial visual separation between uses or districts. This bufferyard is intended for use where a new development is located adjacent to a district or use that is significantly different in intensity, such as a residential district next to an industrial district.
- (5) The dimensions and planting requirements for each type of bufferyard is specified in Table 8-3, immediately following Table 8-2.



Table 8-2 Required Bufferyards

**Key: B1, B2, or B3 = Bufferyard Required, see Table 8-3 for planting requirements  
X = No Bufferyard Required**

Proposed New Development or Redevelopment Required to Install Buffer on Site (see Section 8.B for applicability)															
Structure/ Use	Resource 35 and 10			Residential (LLR-1, LLR-2, NR-1, NR-2, NR-3 and MHP)				Mixed-Use (NMU, DMU, HMU)				Public (P-1, P-2)		Industrial (IND) and Marijuana in all districts	
	SFR	Non-Res		Single FR	Multi-FR	Non-Res	Single FR	Multi-FR	Non-Res	Mixed Use	Non-Res	P1	P2	I1	MJ
Re-Source	Single Family	X	B2	X	B1	B2	X	B1	B2	B2	B2	B2	B3	B3	B3
	Non-Res	B2	X	B2	B2	X	B3	B2	B1	X	B2	B1	B2	B2	B3
Residential	Single Family	X	B2	X	B1	B2	X	B1	B2	B2	B2	B2	B2	B3	B3
	Multi Family	B1	B2	B1	X	B2	B2	X	B2	B2	B2	B2	B2	B3	B3
	Non-Res	B2	X	B2	B1	X	B3	B1	B1	X	B2	B1	B2	B2	B3
Mixed-Use	Single Family	X	B2	X	B1	B2	X	B1	B2	B2	B2	B2	B3	B3	B3
	Multi Family	B1	B2	B1	X	B2	B2	X	B2	B2	B2	B2	B3	B3	B3
	Mixed-Use	B2	B1	B2	B1	B1	B3	B2	X	B2	B2	B2	B1	B2	B3
Public	Non-Res	B2	X	B2	B1	X	B3	B1	B1	X	B1	B2	B2	B2	B3
	P1	B2	B1	B2	B2	B1	B1	B2	X	B1	X	B1	B3	B3	B3
	P2	B3	B2	B3	B3	B2	B3	B3	X	B2	B1	B1	B2	B3	B3
Industrial or MJ	I1	B3	B2	B3	B3	B2	B3	B3	B2	B2	B2	B3	X	B3	B3



## b. Types of Bufferyards

The bufferyards identified in Table 8-2 shall meet the following minimum dimensions and planting requirements:

**Table 8-3: Standard Bufferyard Types**

Requirement	B1	B2	B3
<b>Planting Area Width (min. avg., ft)</b>	6	10	10
<b>Min. Trees</b>	none	1 per 35 linear feet	1 per 15 linear feet
<b>Min. % Organic Landscape Material</b>	75	75	75
<b>Max. % Non-organic Landscape Materials</b>	25	25	25
<b>Max. Organic Groundcover in Turf Grass</b>	Not permitted	N/A	N/A
<b>Opaque Screen Fence</b>	Optional	Optional	Required
<b>Open Fence</b>	Optional	Optional	N/A

## c. Location and Calculations

- (1) Bufferyard depth is measured from the property line inward. Where a buffer area overlaps another buffer area, the area of overlap of one bufferyard shall be subtracted from the total required landscape point calculation to avoid double counting.
- (2) Bufferyards may be located within required yards and setbacks.
- (3) Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining site perimeter landscaping area.

## d. Additional Standards and Instruction

- (1) If a use or district does not conform with the categories identified in Table 8-2, the Zoning Administrator shall determine which category best matches the use.
- (2) A six-foot high sight-obscuring fence or wall shall be provided on the property line where a commercial or industrial use or structure is adjacent to or across an alley from any residential uses, including residential as part of a mixed-use development.
  - (a) A screening fence or wall is not required where the residential uses is separated from the commercial or industrial use by a public street.
  - (b) A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three feet and reaches six feet or more at maturity.
  - (c) Vinyl or powder-coated, colored chain link fencing is allowed within a bufferyard where a sight obscuring fence is required so long as the chain link fence has sight-obscuring slats installed.

#### 4. Off-Street Parking Lot

##### a. Applicability

The following requirements shall be applicable to all new off-street surface parking lots with 10 or more spaces.

##### b. Required Landscape Area

All surface parking lots shall incorporate the following interior landscaping:

- (1) Landscape islands shall be installed for every 10 parking spaces contained in a parking row, either within the parking row or at the end of the parking row.

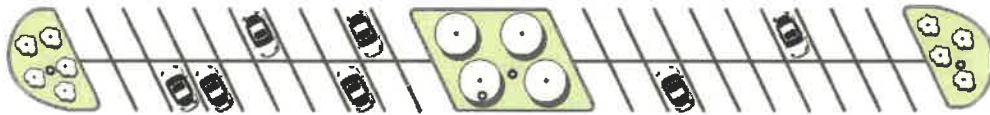


Figure 8-2: Sample parking lot landscaping layout

- (2) Parking lots with 50 or more spaces shall also be divided into subsections of no more than 25 spaces with landscape divider strips shall be placed between the sections.

##### c. Landscape Area Design

- (1) Minimum standards for landscape islands:
  - (a) Minimum dimensions:
    - (i) Width: six feet.
    - (ii) Area: 200 square feet.
  - (b) Planting per 200 square feet: four, five-gallon deciduous shrubs and one deciduous tree with a minimum caliper of two and one-half inches.
- (2) Minimum standards for landscape dividers:
  - (a) 10 feet in width and shall extend the length of the parking row.
  - (b) Include a four-foot-wide sidewalk and a six-foot wide planting strip.
  - (c) Meet planting requirements for landscape islands, as outlined above, with one tree planted every 40 feet.
- (3) Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of concrete curbs, extruded asphalt or other approved permanent barriers.
- (4) No paving shall be permitted within four feet of the center of a tree.
- (5) All of the required parking lot landscaped areas must contain a minimum of 75 percent organic landscaping material, with a maximum of 25 percent inorganic landscaping material. Approved sidewalks are not counted toward the percentage of inorganic material unless specifically provided for in this section.

- (6) Clear vision areas where the parking lot access drive enters from a public right-of-way must be maintained as required in Section xx. Plant materials within these clear vision areas must be trimmed down to no more than 30 inches above grade, or in the case of trees, the lowest branch height trimmed up to 8 feet above grade.
- (7) Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material, replenishment of groundwater supplies and to reduce problems associated with runoff.
- (8) Parking lots shall be designed so as not to drain into or across public sidewalks, adjacent property, or directly into natural watercourses. Curbs used to protect landscape islands should have 18 to 24-inch-wide curb cuts at frequent intervals to allow storm water infiltration. The surface of landscape islands and divider strips shall be concave to help channel surface water runoff. The following drainage structures are permitted within parking lot landscape areas:
  - (a) Rain gardens,
  - (b) Bio-swales,
  - (c) Drainage easements, and
  - (d) Drainage inlets.

## **D. Materials, Installation, and Maintenance**

### **1. General Standards**

The following criteria and standards shall apply to landscape materials and installation:

#### **a. Plant Materials List**

The Town of Dolores suggested and prohibited plant list provided in Appendix A shall be used as necessary to identify plant material requirements or prohibitions within Dolores. Where a species is chosen for a landscape plan that is not identified on a Town plant list, the applicant shall provide information about growth and spacing characteristics on the landscape plan. Plant information shall be taken from objective sources, including professional landscape organization websites or nursery cut sheets. Plant materials identified in any prohibited plant list may not be used in landscaping.

#### **b. Shrubs and Trees**

- (1) Tree and plant materials shall be selected for: energy efficiency and water efficiency; adaptability and relationship to the native environment; color, form and pattern; ability to provide shade; soil retention; and resistance to fire. The overall landscape plan shall be integrated with all elements of the project, such as buildings, parking lots, and streets, and to achieve a desirable microclimate and minimize energy demand.
- (2) Locally appropriate shrubs and grasses shall be utilized in order to minimize the consumption of water. Naturalized vegetation within sensitive land and resource

areas shall be preserved unless the Town approves an alternative naturalized landscaping plan that preserves significant desirable naturalized vegetation.

- (3) If turf areas are included in landscaping, it must be a sod or seed mix specifically cultivated to thrive in the conditions present at the particular site.
  - (a) The use of non-naturalized, high water consumptive turf or other monoculture seeding such as Kentucky Blue Grass is discouraged.
  - (b) The applicant must provide information regarding the composition of a sod or seed mix as part of the detailed plant list as required.
  - (c) No person or organization shall impose private covenants, conditions, deed clauses, or other agreements that require the installation of turf or prevent the utilization of water efficient landscaping, provided such landscaping receives appropriate approval. No person shall prohibit landscaping materials and designs solely on the basis that they make use of water-efficient landscaping.

**c. Weed Control**

The Colorado Revised Statutes at Title 35, Article 5.5, Colorado Noxious Weed Act will be used for control of noxious weeds.

**d. Quality**

All plant and landscaping materials must be free of weeds, insects, diseases, mechanical injuries, and other objectionable features at the time of planting. Where appropriate, certified weed-free products, such as mulch, shall be used.

**e. Coverage**

- (1) Grass, ground cover, shrubs, organic mulch, and other organic landscape materials shall be used to cover at least 75 percent of open ground. Shade provided by trees, shrubs, or structures, or anything not on the horizontal plane of the site does not qualify as ground cover.
  - (a) Open ground includes all fill slopes and hillsides, regardless of the angle of the slope.
  - (b) Open ground also includes all fill rock and shot rock slopes that must be covered with an appropriate depth of soil to allow for the healthy growth of the coverage.
  - (c) Inorganic material can be incorporated into a landscape plan where appropriate and can be used to cover up to 25 percent of open ground.
- (2) No area required to be landscaped shall include any artificial trees, plants, or turf; impervious surfacing other than sidewalks, decorative pathways or other public amenities; or any carpeting designed as a visual substitute for lawn or other groundcover.
- (3) Areas devoted to pasture, farm crops, or undeveloped areas of a parcel shall not be considered landscaped for the purpose of fulfilling any landscape requirements.

**f. Trees**

Trees used for landscaping shall be a species common to, or adapted to this area of the state, and not identified as prohibited on any Town plant list. Trees shall have the following characteristics:

- (1) Canopy trees, with an outer layer of dense leaves that block light and provide share, shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least two inches at time of planting.
- (2) Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least one and one half (1.5) inches at time of planting.
- (3) Coniferous trees shall have a minimum height of 20 feet at maturity. All coniferous trees shall be at least four feet in height at time of planting.
- (4) Street trees shall be canopy trees.

**g. Shrubs, Hedges, and Ornamental Grasses**

Shrubs shall have the following characteristics:

- (1) Small or dwarf deciduous shrubs that typically do not grow to a mature height or spread exceeding three feet shall have a minimum height of twelve inches with a minimum of four canes.
- (2) Intermediate deciduous shrubs with a mature height or spread of three to seven feet shall have a minimum height of 18 inches with a minimum of four canes.
- (3) Large or tall deciduous shrubs with a mature height exceeding seven feet shall have a minimum height of 24 inches and a minimum of five canes. Where these shrubs have a narrow habit the minimum number of canes may be reduced to one.
- (4) Ornamental grasses shall have a minimum two-gallon pot size at time of planting.
- (5) Hedges, where installed as a bufferyard screen, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least three feet in height at the time of planting and achieve a minimum height of six feet within five years.

**h. Ground Cover, Perennials, and Annual Planting Areas**

Ground covers, perennials, and annual planting areas used in lieu of grass in whole, and in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage at maturity.

**i. Lawn Grass**

Grass areas may be sodded, plugged, sprigged, or seeded, except that sod or other erosion control products shall be used in swales, berms, or other areas subject to erosion.

**j. Naturalized Plants and Grasses**

Naturalized plants and grasses shall not be considered weeds that are subject to [Dolores Municipal Code]; however, the area planted in naturalized plants and grasses shall be kept weed-free to maintain this exemption.

**k. Fractions in the calculation of number of trees and shrubs.**

In the calculation of trees and shrubs for any required landscaping, all fractions shall be rounded to the nearest whole number.

**2. Interference and Visibility**

- a. All landscaping shall be sized and located so that it does not interfere with utilities, easements or fire hydrants.
- b. All landscaped areas must comply with the clear vision area standards for intersections as established in Article xx.

**3. Location of Utilities**

Proposed utilities shall be located, when possible, so that their installation will not adversely affect vegetation to be retained on a site.

**4. Installation**

Landscaping, watering devices, walls and screening structures shall be installed in accordance with the approved landscape or screening plan prior to issuance of a final Certificate of Occupancy for the building or use. The Building Official may grant a temporary Certificate of Occupancy during the winter months when installation is impracticable or not feasible.

**5. Maintenance Requirements**

- a. Landscaped areas shall be reasonably maintained by the owner or the lessee of the property, including pruning, trimming, watering, and other requirements necessary to create an attractive appearance for the development. Lack of maintenance of required landscaping material shall constitute a violation of this Code.
- b. Any plant materials not surviving shall be replaced within 30 days of their demise or in the next appropriate season.

**6. Irrigation Systems**

Irrigation systems shall be installed to current water regulations for safety purposes and reported to the Town Staff for inspection.

**E. Screening**

**1. Screening Standards**

Where screening standards are required by this Code, the following screening standards shall apply:

**a. Height of Screening Devices**

The height of screening devices shall be measured from the highest finished adjacent grade of the element to be screened.

**b. Outdoor Storage Areas**

All outdoor storage areas for materials, trash, mechanical equipment (including ground-based satellite dishes) or other similar items shall be screened from street view



by a minimum six-foot high screening device. The screening device shall consist either of plant material or a wall constructed of or finished with materials to match the main building of the site.

**c. Roof Mounted Equipment**

Roof mounted mechanical equipment shall be screened by parapet walls or other screening devices except solar equipment.

**F. Fences and Walls**

In any residential district or along the common boundary between any residential or nonresidential district where a wall, fence, or screening separation is erected or where a screening wall or fence is required by this Code, the following standards for height and design shall be observed.

1. No fence or wall erected within a required front yard shall exceed four feet in height above the adjacent grade.
2. No fence or wall erected within a required side or rear yard shall exceed six feet in height above the adjacent grade, provided, however, where houses on adjacent lots are constructed such that the front of one house faces the back of the adjacent house, then the maximum rear yard fence height shall be four feet.
3. Fences and walls shall be erected in accordance with the requirements of Article V.B.7.d., Corner visibility.<sup>1</sup>
4. Barbed wire fences are prohibited.

**G. Tree Preservation**

**1. Purpose**

The terms and provisions of this section are intended to accomplish the following:

- a. Encourage the protection of healthy trees and provide for the replacement and/or replanting of trees that are necessarily removed during construction, development or redevelopment; in accordance with species included in State Noxious Weed list.
- b. Provide for the preservation and protection of larger established trees, which provide a valuable amenity to the urban environment and which, once destroyed, can only be replaced after generations, if at all.
- c. Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.
- d. Prevent the clear cutting of land.

**2. Applicability**

- a. When a grading or building permit is requested for a property, all healthy trees of desirable species, as identified on the Town's [insert formal name of plant list], that meet the following criteria shall be maintained on private property prior to issuance of the requested permit.

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<sup>1</sup> Update cross-reference

- (1) A single trunk of six inches caliper or greater, measured at four feet above natural grade DBH (diameter breast height), and at least 12 feet high; or
  - (2) A multi trunk having a total caliper width of eight inches, measured by combining the caliper width of the largest stem or branch with one half the caliper width of each additional stem or branch, all measured at four feet above natural grade level, and at least twelve feet high.
- b. An inventory of all trees meeting these criteria (“established tree”) must be shown on the site plan.

**3. Review**

The Town may hire a certified arborist or other qualified professional to assist with tree preservation and removal issues. Fees for this work may be charged to the applicant or property owner.

**4. Exemptions**

The following established trees are exempt from the provisions of this section:

- a. Trees located within necessary public rights of way, easements, and the designated buildable area of a building lot or site to be removed subject to site plan approval and prior to the issuance of a grading or building permit.
- b. Any established tree that is determined by the zoning administrator to be standing dead, severely damaged from an emergency (such as a storm, flood, or other act of God), or is otherwise in a hazardous or dangerous condition so as to endanger the public health, welfare, or safety, may be removed without delay. Authorization for removal without site plan approval may be given by the Town Administrator, and the tree may then be removed.

**5. Preservation of Established Trees**

- a. All existing, healthy established trees must be preserved or transplanted on the site unless their removal is approved by the zoning administrator.
- b. Where established trees are removed, they shall be replaced elsewhere on the site as follows:

**Table 8-6: Tree Replacement Ratios**

DBH of removed tree in inches	Ratio of replacement trees to removed tree
At least 6 and less than 15	1:1
At least 15 and less than 25	2:1
At least 25 and less than 35	3:1

For each increment of 6 inches above 35 inches, one additional replacement tree shall be provided

- c. Tree replacement shall be made within 180 days of the removal. Any tree or tree areas identified to be retained on the site plan that do not remain alive for a period of at least two years after the development of the site, or stage ceases, shall be considered damaged in violation of this Code and shall be replaced.



- d. If the site layout cannot reasonably accommodate the number of trees required in compliance with the replacement ratios and/or tree spacing consistent with standard forestry practices, the zoning administrator shall either:
  - (1) Approve an increase in the size of the on-site replacement trees and reduce the number of trees required. The quantity and quality of the replacement trees shall be sufficient to produce a reasonable tree canopy for the size of the lot; or
  - (2) Require payment of an in-lieu fee in compliance with subsection (3) of this section for the required number of trees or any portion thereof.
  - (3) In-lieu fee. Payment of a fee shall be made to the Town for tree planting elsewhere in the community should on-site location of the replacement trees not be possible, subject to the following:
    - (a) The in-lieu fee will be based on the fair market value of the number of trees required for the same or equivalent species, delivered and installed, as determined by the zoning administrator.
    - (b) The fees will be used to purchase trees that will be planted within the public right-of-way or on other public property as directed by the Town Board.
    - (c) Payment of the in-lieu fee shall be made prior to issuance of the project final permit.

**6. Penalties for Unauthorized Removal of Established Trees**

It shall be considered an unauthorized removal if an established tree is removed without first obtaining site plan approval, or if it is intentionally or unintentionally killed by means of grading, grubbing, placement of fill, or other unacceptable construction methods and the Town may enforce the provisions of Article 18, Violation, Enforcement, and Penalties.

**7. Tree Protection Measures**

The following protection measures shall be required for established trees as identified on the site plan:

- a. Prior to construction or land development, the developer shall clearly mark with three inch wide red ribbon or tape all established trees within 30 feet of a public right of way, public easement, or buildable lot area, as included on the applicable approved and filed final plat.
- b. No attachments or wires of any kind, other than those of a protective nature, shall be attached to any established tree.
- c. With major grade changes of six inches or greater, a retaining wall or tree well of rock, brick, landscape timbers or other approved materials shall be constructed around the established tree no closer than the drip line of the tree. The top of the retaining wall or tree well shall be constructed at the new grade.
- d. Unless otherwise approved by the Town, no construction or construction related activity shall occur under the canopy, drip line, or closer than five feet, whichever is more, of any established tree or group of established trees.

**H. Removal of Dead, Diseased, or Dangerous Trees**

1. The Zoning Administrator may enter upon any premises without a warrant to inspect all trees in the Town.
2. If the Zoning Administrator finds that there exist dead trees or overhanging limbs that pose a danger to persons or property, the Zoning Administrator will notify the owner, lessee, agent, occupant, or other person in possession or control of the property upon which the condition exists of the duty to remedy the condition within 15 days from the date of the notice or such shorter time as the Zoning Administrator finds appropriate in view of the nature and extent of the condition.
3. If the Zoning Administrator determines that any tree growing on private property within the Town is afflicted with any dangerous or infectious insect infestation or disease, the Administrator will notify the owner, lessee, agent, occupant, or other person in possession and control of the property of the condition and order such person to take specific prescribed measures that the Zoning Administrator determines are reasonably necessary to cure the infestation or disease and to prevent its spread, within 10 days from the date of the notice or such time as the Zoning Administrator finds appropriate in view of the nature and extent of the condition. If necessary to address a dangerous or infectious insect infestation or disease, the Zoning Administrator may require that work shall be completed under the supervision of a certified arborist.
4. If the person notified pursuant to Subsection 2 or 3 of this section fails to correct the condition as required by the notice prescribed in such subsection, except in cases of extreme emergency, the Zoning Administrator may enter the property, pursuant to an administrative warrant issued by the municipal court, and correct the condition and charge the costs of such correction, plus reasonable administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.
5. Nothing in this section shall be deemed to prohibit the Zoning Administrator from taking such steps to correct an immediate threat to the public health, safety, or welfare that the Zoning Administrator determines is posed by such diseased, dead, or dangerous trees.

**Appendix A: Dolores Suggested and Prohibited Plant List**

**Prohibited Plants**

Any plant included in the Montezuma County Noxious Weed Guide (or successor list).

**Suggested Plants**

Native or naturalized trees, shrubs and grasses, as identified by the Colorado State University Extension Service, shall be utilized in order to minimize the consumption of water.

Trees and shrubs identified in the City of Durango Tree & Shrub Guide.

## **I. Landscape Plan Review (new, will be moved to Article 17)**

### **1. Authority**

A landscape plan may be submitted for review by a property owner or the property owner's agent.

### **2. Procedures**

a. Landscape plans shall be submitted in conjunction with a site plan application.

b. A landscaping plan must be approved by the zoning administrator and landscaping installed before the issuance of a final project approval.

### **3. Information Required**

a. The developer or property owner is encouraged to work with a landscape architect, nurseryman, or landscape design professional to make the landscaping an integral part of the overall site design by using site-specific materials which are:

- (1) Appropriate to the conditions in which they are planted;
- (2) Have noninvasive growth habits;
- (3) Encourage low maintenance, high quality design; and
- (4) Be otherwise consistent with the intent of this chapter.

A list of recommended plants is provided in Section xx.

b. The landscaping plan shall contain the following elements:

- (1) Minimum scale: 1"= 40'
- (2) Property lines, easements, and public rights-of-way, including clear vision triangles.
- (3) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (4) Buildings or structures - both new and existing.
- (5) An estimated count and approximate location of all existing trees, established trees subject to the requirements of Section 8.G.
- (6) Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.
- (7) Landscaping materials:
  - (a) Location and spacing of proposed plant materials.
  - (b) Location of existing trees or landscaping to be preserved or eliminated.
  - (c) Types and location of new vegetation identified by botanical and common names and listed on a plant schedule.
  - (d) Size of materials, in diameter and height at installation and maturity.
  - (e) Quantity of each planting materials to be used.

(a)(f) Types and location of inorganic landscaping material.

(g) Noxious weed inventory and proposed management method(s).

(8) Location of walls, fences, screening, and refuse storage areas.

(9) Location of any proposed retaining walls, indicating size and material to be used in the construction of the wall.

(10) Location of hose connections and other water sources.

(11) Methods of protecting the landscaped areas.

(12) Proposed treatment of all ground surfaces (concrete or asphalt paving, pavers, turf or gravel).

**4. Decision Criteria**

The zoning administrator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

- a. The landscape plan conforms to all requirements of this article and is consistent with the currently adopted comprehensive plan and any other applicable plans.
- b. The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
- c. Preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
- d. No plant materials or landscape features are situated in such a manner so as to inhibit clear sight areas established in Section xx, or otherwise create a traffic hazard.
- e. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.

**5. Post Approval**

**a. Site Specific and Binding**

Approved landscape plans shall be binding upon the applicants and their successors and assigns.

**b. Landscaping Installed Within One Year of Completion of Construction**

(1) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 8.D and be in place within one year of completion of construction. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan.

(2) If the timing of the project and seasonal limitations prevent planting within one year of completion of construction, security as described in this section may be provided and the planting period may be extended accordingly.

**c. Security Required**

- (1) When the timing of a project delays the installation of the landscaping, a performance bond or letter of credit in an amount of 150 percent of the landscaping materials and labor costs that does not expire for at least one year from the date of issuance shall be posted with the zoning administrator to ensure the placement of the required landscaping.
- (2) The property shall be inspected by the zoning administrator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.



# Dolores Land Use Code Update

## Article 8: Landscaping, Screening, and Trees

What Has Stayed the Same?

### Property Owner Choices



Property owner creates landscape design and chooses plants from Dolores-specific plant list.

Single family and existing development exempt from most landscaping requirements.

The location and type of landscaping, watering devices, walls, and screening structures are shown on the landscape plan.

### Basic Landscaping Requirements

Landscaping is required in front and side yards next to public streets. One tree is required per yard.

Outdoor storage and roof-mounted equipment need to be screened.



Landscaped areas have to be maintained. Dead plants must be replaced. Irrigation must be properly installed and inspected.

### Importance of Trees

If established trees that are not in the way of building or driveway construction are removed - when they could have been protected - they must be replaced with new trees.

Established trees that can be preserved need to be protected from accidental damage during construction.



What Has Changed?

### Focused on Dolores

- Purposes revised to focus on:
- Water conservation
  - Stormwater mitigation
  - Impact of trees
  - Support of property value

Plant materials section update and clarified to focus on quality, weed-free plant materials that thrive in Southwestern Colorado.



### Limited to Locations Where Landscaping Helps

Street front landscaping reduced from full yard to first 10-feet of a yard on a public street.

Bufferyards required to provide screening between new commercial development and existing development. The new development provides the bufferyard on their property.

Parking lot landscaping required for new commercial parking lots with 10 or more spaces. The amount of landscaping is tied to amount of parking, so smaller lots require less landscaping than larger lots.



### Balanced Approach to Keeping Established Trees



Current tree preservation standards simplified and focused on maintaining larger, established trees on new development sites. Trees can be removed where the structure and driveway will be located.

Updated provisions requiring the removal of dead, diseased, or dangerous trees.

Questions? [insert Town contact information]