

# **CONSTRUCTION SITE SEDIMENT AND EROSION CONTROL ORDINANCE OF BANNOCK COUNTY, IDAHO**

## **ORDINANCE No.5**

### **SECTION 100 TITLE, PURPOSE AND INTENT**

#### **110 TITLE:**

This ordinance shall be known as the *CONSTRUCTION SITE SEDIMENT AND EROSION CONTROL ORDINANCE OF BANNOCK COUNTY, IDAHO*.

#### **111 STATUTORY AUTHORITY:**

The Legislature of the State of Idaho in I.C. 31-714 authorized the Board of County Commissioners of Bannock County to pass ordinances to provide for the safety and promote the health and prosperity of the inhabitants of the county and to protect the property within the county.

#### **120 STATEMENT OF PURPOSE:**

The purpose of this ordinance is to comply with the requirements of Bannock County's national pollutant discharge elimination system (NPDES) permit no. IDS-028053, the federal clean water act, and to provide for the health, safety, and general welfare of the citizens of Bannock County through the regulation of construction activities within the county by establishing methods to control sediment discharges and reduce soil erosion deposits into the municipal separate storm sewer system or into the air shed. The objectives of this ordinance are:

- A. To promote and protect the health, safety, and general welfare of the citizens of Bannock County and enhance and preserve the quality and value of resources by regulating construction activities with respect to erosion and sediment control.
- B. To provide for the protection of stormwater, ground water, water bodies, watercourses, and wetlands pursuant to and consistent with the clean water act, and NPDES permits granted to Bannock County.
- C. To manage and control the amount of pollutants in stormwater discharges, reduce soil erosion, sediment discharge, and mud and dirt deposits on public roadways caused by or resulting from construction activities.
- D. To ensure adequate drainage, stormwater management and soil conservation measures are utilized at the site of any construction activity.

## **SECTION 200 DEFINITIONS**

For the purposes of this ordinance, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENT:** The Planning Director or his designee.

**BANNOCK COUNTY URBANIZED AREA:** The area of Bannock County within the City of Pocatello Area of Impact as defined in Bannock County Ordinance No. 1998-6 and within the City of Chubbuck Area of Impact as defined in Bannock County Ordinance No. 1998-5 and including those portions of the Pocatello Urbanized Area outside the city limits of the City of Pocatello and the City of Chubbuck.

**BEST MANAGEMENT PRACTICES (BMPs):** Physical, structural, and/or managerial practices that, when used singly or in combination, control activities including, but not limited to, site runoff, spillage and leaks, and waste disposal, and prevent or reduce the discharge of pollutants directly or indirectly to waters of the state or United States. BMPs may also include schedules of activities, prohibition of practices, design standards, educational activities, and treatment requirements.

**CLEAN WATER ACT (CWA):** The federal water pollution control act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY:** Activities occurring in furtherance of a construction project, including, but not limited to, land disturbing activities; temporary crushing and screening operations lasting less than one hundred eighty (180) calendar days; hauling soil and rock; explosive and abrasive blasting; implosion; handling of building materials; concrete, stone and tile cutting; operation of motorized and nonmotorized machinery; and the operation of motor vehicles on a construction site, a staging area, a parking area, a storage area, or any access routes to the construction site.

**COUNTY:** Bannock County and/or its representatives, staff, or assigns.

**EROSION:** Progressive detachment and removal of particles, including soil and rock fragments, from the earth's surface by means of water, wind, ice, gravity or mechanical processes, including vehicular traffic.

**EROSION CONTROL PLAN:** Details of the concepts and techniques, including BMPs, used prior to and during construction, up to and including final landscaping, to control and limit soil erosion, mud and dirt deposits on public roadways, and sediment discharge.

**LAND DISTURBING ACTIVITY:** A human induced change to improved or unimproved land, including, but not limited to, new home or building construction, expansion of an existing building or home, demolition activity, clearing, grubbing, leveling, excavation, fill operations, trenching, landscaping, grading, drainage, pipe installation, drilling, mining, dredging, road construction or improvement, paving, construction of earthen berms, and improvements for use as parking or storage.

**MAXIMUM EXTENT PRACTICABLE (MEP):** Technology based discharge standard for municipal separate storm sewer systems established by CWA section 402(p).

**MUNICIPAL SEPARATE STORMWATER SYSTEM (MS4):** All parts of the county's stormwater conveyance system including roads, streets, gutters, catch basins, pipe, culverts, ditches, and other conveyances which normally convey stormwater.

**PERMIT:** The erosion control permit issued by the county which authorizes performance of a construction project.

**PERMIT HOLDER:** The person who makes application for an erosion control permit.

**PERSON:** Any individual, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

**POCATELLO URBANIZED AREA:** the greater Pocatello, Idaho, area delineated by the Year 2000 Census by the U.S. Census Bureau of the Census according to the criteria defined by the Bureau on March 15, 2002 (67 FR 11663) as depicted on the attached map.

**POLLUTANT:** Objects and materials which, when discharged to water or air, cause or contribute to water or air pollution, or as defined by the federal water pollution control act (also known as the clean water act).

**POLLUTION:** The discharge of any pollutant into the airstream or waters of the state or U.S. which will or is likely to create a nuisance or to render such waters harmful, detrimental, or injurious to public health, safety or welfare, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses, or as defined by the federal water pollution control act (also known as the clean water act).

**SEDIMENT:** Solid material, either mineral or organic, that is in suspension or has been or is being moved from its site of origin due to erosion.

**STORMWATER:** Surface runoff and drainage associated with rainstorm events and snowmelt.

**VARIANCE:** A modification of the requirements of this ordinance based on hardship.

**WATERCOURSE:** Any natural or artificially managed channel through which water flows on a regular or routine basis.

**WETLANDS:** Lands that meet all of the following criteria: a) a predominance of hydric soil, b) saturation by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and c) normally support a prevalence of hydrophytic vegetation.

## **SECTION 300 GENERAL PROVISIONS**

### **310 APPLICABILITY:**

This ordinance shall apply to all construction activity and all land disturbing activity, directly or indirectly associated with construction projects, and all persons engaged in construction activity and land disturbing activity, directly or indirectly associated with construction projects, within the Bannock County Urbanized Area. Indirect association requires a recognizable connection between the activity involved and the construction project, but does not require a primary or direct connection.

### **320 REGULATORY CONSISTENCY:**

This ordinance shall be construed to assure consistency with state and federal laws, rules and regulations, including the clean water act and all acts amendatory thereof or supplementary thereto; all NPDES permits issued to Bannock County, and in particular, NPDES permit no. IDS-028053; and any other provisions of this code. No permit or approval issued pursuant to this ordinance shall relieve a person of the responsibility to secure permits and approvals required for activities regulated by any other applicable rule, code, act, permit or ordinance. Compliance with this ordinance does not exempt any person from complying with other applicable ordinances, rules, codes, acts or permits.

## **330 GENERAL REQUIREMENTS AND PROHIBITIONS:**

- A. Every person shall obtain an erosion control permit (hereinafter "permit") from the county before commencing any construction activity, unless performing work covered by an existing county approved erosion control permit or otherwise exempted by this ordinance.
- B. Erosion, sediment, or discharge of pollutants, resulting from construction activities, which enter onto public property or private property not controlled by the permit holder, shall be eliminated to the maximum extent practicable unless otherwise permitted or exempted under this ordinance.
- C. No final plat, subdivision site development plan, site plan, grading permit, building permit, or public work project shall be approved without an approved erosion control plan meeting the requirements of the federal construction general permit and related notice of intent and storm water pollution prevention plan (SWPPP) requirements.
- D. All construction activity commenced pursuant to an approved erosion control plan or permit must at all times comply with the conditions of the erosion control plan or permit. The permit holder is responsible for ensuring their contractor(s), subcontractor(s), utility trenching subcontractor(s), and all other persons entering the site abide by the conditions of the permit. The permit holder's signature or that of his authorized agent on the permit shall constitute an agreement by the permit holder to accept responsibility for meeting the conditions of the permit.
- E. No construction activity shall take place without a valid permit. If a permit has been suspended or revoked, or has expired, all work covered by the permit shall cease until a new permit is issued.
- F. The permit holder shall notify the county of pending permitted construction activity a minimum of forty eight (48) hours prior to commencement of such activity.

G. A person or persons possessing a current and valid certificate of training, as provided for in section 430 of this chapter, shall be directly in charge of all sites of construction activity regulated by this ordinance. Failure to comply with this requirement will result in revocation or suspension of the permit issued pursuant to this ordinance.

H. All necessary action shall be taken to minimize the depositing and tracking of mud, dirt, sand, gravel, rock or debris on or onto the public right of way. The owner of the site of the construction activity or the permit holder with respect to the construction site shall be responsible for any cleanup of the public rights of way or private property not under the permit holder's control necessitated from any tracking or depositing of mud, dirt, sand, gravel, rock or debris, or shall reimburse the county for any expenses incurred by the county to effectuate the cleanup.

I. Construction ramps shall be constructed of material that will not erode or deteriorate under adverse conditions, and shall not be placed in a manner as to interfere with or block the passage of stormwater runoff.

J. No debris, dirt, aggregate or excavated materials, or construction supplies, shall be placed on the public right of way unless specifically permitted by the county in writing. In addition, public sidewalks shall not be removed, blocked, or otherwise rendered unusable by construction activity, equipment or materials, or portable toilets, unless a safe, usable alternate walkway, as approved by the county is placed on the same side of the right of way by the contractor.

K. No owner or lessee of real property shall allow the property to be unoccupied, unused, vacant or undeveloped after the topsoil has been disturbed or the natural cover removed, unless control measures are undertaken to prevent mud, sand, dirt and gravel, or other material from migrating off site and entering the public right of way or a stormwater system.

L. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within twenty one (21) days from removal of the temporary measures.

M. To facilitate inspection and enforcement under this ordinance, all building or commercial lot owners holding an erosion control permit shall display a sign on the property noting information required by the federal construction general permit for all projects requiring permit coverage under the construction general permit. All required writing on the signs shall be legible and of sufficient size to be easily read from the nearest public right of way location.

## SECTION 400 ADMINISTRATION

### 410 EROSION CONTROL PERMITS:

A. The following categories of permits shall be issued upon approved application:

1. General permit: Issued for construction, demolition, and site development for single-family homes and duplexes, and utility trench excavation.
2. Site specific permit: Issued for construction, demolition, and site development for multiple home developments, apartment complexes and commercial sites.
3. Special site permit: Issued for the following site conditions for additional control measures:
  - a. Predevelopment slopes greater than fifteen percent (15%).
  - b. Ground disturbance of a natural vegetative buffer within fifty feet (50') of wetlands or water bodies, including perennial streams and watercourses.
  - c. Sites located entirely or partially within an environmentally sensitive area as identified by state or federal authorities.
  - d. Any other site determined by the county to have conditions necessitating additional control measures.

B. Applications for permits shall be made on forms provided by the county and shall be accompanied by any applicable fee or fees. In addition, applications for site specific permits or special site permits shall be accompanied by two (2) copies of an erosion control plan which is in compliance with the provisions of this ordinance. Erosion control plans, applicable best management practices, notices of intent (NOI) as required by the federal environmental protection agency, Idaho construction general permit shall be properly executed prior to application to the county and a copy of the federal permit NOI must accompany the county permit application. No permit requiring an erosion control plan shall be granted unless the erosion control plan has been approved by the county, including verification of compliance with the federal construction general permit.

C. Permit applications should be filed with the county at the same time as the request for a permit to conduct the construction activity, such as a building permit or grading permit.

D. Any construction activity which has been initiated, but not fully completed, at the time of enactment of this ordinance shall require a permit within ninety (90) days of the effective date of this ordinance, unless otherwise exempted by this ordinance. Initiation is not limited to actual ground breaking activities, but also includes granting of building, excavation and construction permits.

E. For general permits, although an erosion control plan is not required, the permit will contain requirements and conditions that must be implemented before and during construction. These requirements and conditions will consist of, but are not limited to, the requirements found in this ordinance.

F. The following construction or land disturbing activities do not require a permit:

1. Minor land disturbance (spatial areas less than one fourth (1/4) acre and confined to 1 residential or commercial lot) activities performed by the property owner or an employee of the property owner,

- including, but not limited to, individual home gardens, commercial and residential landscaping, and landscaping maintenance and repair work.
2. Repair, replacement, and utility work which occurs entirely on a residential lot, in which no sediment leaves the property.
  3. Installation of fence, sign, telephone, electric poles, and other types of posts and poles that involves less than two (2) cubic yards of excavation in any one location.
  4. Emergency repairs or emergency work necessary to protect the health, safety and general welfare of the public.
  5. Utility repair work that involves less than two (2) cubic yards of excavation in any one location.
  6. Parking lot and driveway repair where no sediment leaves the private property and which disturbs less than one fourth (1/4) acre.
  7. Construction activity that occurs entirely on federal or state owned lands.
  8. Construction and maintenance activity that occurs on transportation rights of way or land owned by a separate governmental entity, when an erosion control plan for the activity has been approved by the controlling governmental entity.
  9. Construction, maintenance, and any other land disturbing activity on canals, laterals, sublaterals, ditches, drains, and other water conveyance facilities, and all appurtenant roadways and structures, which occurs within the fee title lands, rights of way, or easements for such facilities and appurtenances. This exemption is not a relief from provisions of this ordinance which control activities that impact public or private property.
  10. Crushing and screening operations exceeding one hundred eighty (180) calendar days of operation. These sites are subject to zoning and conditional use permit requirements, and any other requirements specified by Bannock County ordinances. This exemption does not relieve such operations from provisions of this ordinance which control activities that impact public or private property.

G. Approval of an erosion control plan and issuance of a permit does not relieve a person from the duty to ensure continuous compliance with all conditions of the approved plan or permit, as well as all of the applicable provisions of this ordinance and appropriate federal requirements.

H. The permit may be suspended or revoked by the county at any time if the site of the construction activity is not in full compliance with the conditions of the approved erosion control plan, the permit, and all applicable provisions of this ordinance; the permit was issued in error; or the permit was based on incorrect information.

I. Written notice shall be given by the county to the permittee of the suspension or revocation of a permit, and this decision may be appealed in accordance with the provisions of section 445 of this ordinance.

J. A permit shall automatically expire and become null and void if the project for which the permit was issued is not commenced within a period of one hundred eighty (180) days from the date of issuance, the project for which the permit was issued is suspended or abandoned for any reason within the permit holder's control, or the time frame for conditions of a violation order has elapsed without compliance. The project shall not recommence until the permit has been renewed. Such renewal will require submittal of intent to renew the permit, payment of the applicable fee, and approval of the county.

K. Once final landscaping and all of the requirements or conditions have been completed and a certificate of occupancy has been issued by the Bannock County building official, the conditions of the permit shall cease. The building official may require all denuded soil to be permanently stabilized prior to the issuance of the certificate of occupancy. In addition, any charges, fees, cleanup costs and penalties must be paid

before issuance of a certificate of occupancy. The certificate of occupancy for a phased development permit will not be issued until all lots have been completed or a legal transfer of ownership has occurred. Notification for a legal transfer of ownership must be made to the county within five (5) working days of the transfer.

L. In cases where another person wishes to continue or complete work previously commenced under a permit, said person shall either obtain a new permit or gain transfer of the previous permit. The original permit holder will be released from the permit once another person has become responsible for the conditions for erosion and sediment. Such transfers must be approved by the county.

M. Permits may be transferred to other persons upon approval of the county after receiving a request for transfer and payment of the applicable fee. The request must contain the name, address, and telephone number of the person to whom the permit will be transferred. The involved parties shall be notified of the decision of the county within ten (10) working days. If approved, all conditions of the permit shall transfer to the new permit holder. If approval is not granted, an appeal may be taken under the provisions of Section 445 of this ordinance.

## **415 EROSION CONTROL PLANS:**

A. An erosion control plan submitted with an application for a permit must bear the signature and certification number of an individual who has successfully completed a county approved training course and who has demonstrated competence, through education, training and knowledge of the applicable laws and regulations, in erosion and sediment.

B. The county shall review all submitted erosion control plans and issue a permit for each approved erosion control plan.

C. An erosion control plan may not be approved in part. If the erosion control plan is incomplete when initially submitted, it will be returned to the submitter for completion. No activity allowed under the subject permit will be allowed until the erosion control plan has been approved and the permit issued.

D. If an erosion control plan is not approved, a permit will not be issued, and the applicable construction activity will not be allowed to commence. This decision shall be communicated to the applicant and a new erosion control plan will be required prior to the issuance of a permit. An applicant may appeal a decision not to approve an erosion control plan pursuant to the provisions of section 445 of this ordinance.

E. Erosion control plans shall include the following:

1. Erosion control report which discusses, with supporting technical documentation, the strategy of the proposed erosion control plan, and including significant details of the BMPs which will be utilized.
2. Site drawing of existing and proposed conditions, including:
  - a. Property boundaries and lot lines.
  - b. North arrow, scale and date.
  - c. Excavations, grades, paved areas, pond elevations, structures and utilities.
  - d. Drainage easements.
  - e. Bench mark.
  - f. Surface water and wetlands, drainage patterns and watershed boundaries, if present.

- g. Location of vegetative cover.
  - h. Location of BMPs.
3. Topographic survey showing drainage and irrigation water conveyance systems and finished grade contours at two foot (2') intervals. Sites less than one acre, with less than two percent (2%) cross grades, may submit grade spot elevations of the property line and other required points in lieu of the topographic study.
4. Plan of new or modified drainage systems, including system dimensions.
5. Sites located in areas which are sensitive, having slopes in excess of fifteen percent (15%), erodible soils, or otherwise designated as sensitive by state or federal regulations shall have all erodible soils designated and classified using the unified soil classification system (USCS). An engineering geology or geotechnical report, prepared by a registered geologist or geotechnical engineer, and providing recommendations for erosion control, is required for all preliminary plats with additional information required in more complex geotechnic settings.
6. Location and schedule of soil disturbance.
7. A BMP inspection and maintenance schedule.
8. Final vegetation, landscape, and permanent stabilization measures. Plant species for grasses, forbs and shrubs shall be selected from the Bannock County's "Revegetation Guide" available from the Office of Planning and Development Services.
9. Name, title, address, and telephone number of the landowner or owner's representative.
10. Any other information used to prepare the erosion control plan, such as geologic reports prepared by a registered geologist, maps and geotechnical engineering reports prepared by a registered engineer, and soil surveys. Photographs may be included and appropriately labeled.
- F. If the applicant submitting an erosion control plan has an approved stormwater management plan which contains the requirements listed above, the applicant may file proof of the approved stormwater management plan in lieu of submitting a new erosion control plan.
- G. Erosion control plans may be modified at the permit holder's request upon an approved application for modification and payment of the applicable fee. Any modification deemed by planning director to be minor may be approved on site by an authorized representative without the need for a formal application and fee payment. The authorized representative shall document the modification on a field report or correction notice, and the approved plans, with a dated signature.
- H. If the county's authorized representative determines the facilities or techniques of an erosion control plan are not effective or are not sufficient after prior approval, and such insufficiencies are having an impact on public property or private property not controlled by the permit holder, or is placing the county in violation of its NPDES permit, the county may order a revised plan be submitted within a reasonable time period. If the revised plan is not acceptable or is not immediately implemented upon approval, the permit may be suspended or revoked. Any decision of the authorized representative or planning director regarding said revised plan may be appealed pursuant to section 445 of this ordinance.

I. Emergency control measures may be ordered when erosion products are actually leaving the site or sediment deposition is occurring. These emergency control measures will not relieve permit holders or applications of the duty to file a revised plan if required by the county.

## **420 EROSION AND SEDIMENT CONTROL STANDARDS:**

The design, testing, installation, and maintenance of erosion controls, as detailed in the erosion control plan, shall be in accordance with the Idaho department of environmental quality catalog for construction BMPs shall provide appropriate references. A checklist of conditions, goals and expectations for these standards will be maintained by county staff and is available upon request.

## **425 PERMIT FEES:**

A. The county maintains the right to prescribe and regulate the fees or charges associated with obtaining a permit pursuant to this ordinance. Said fees will be set from time to time by resolution of the board of Bannock County Commissioners.

B. The county shall set reasonable fees for the application for a permit, which fees shall be set from time to time by resolution of the board of Bannock County Commissioners. Payment of said fees shall be required upon initial application, as well as for any requests for modifications of erosion control plans and requests for variances.

C. The required permit fees shall be based on the nature or size of the permitted area and are for the purpose of providing administration and enforcement of the provisions of this ordinance.

D. For a one year period following enactment of this ordinance, permit fees imposed pursuant to this ordinance shall be reduced by twenty five percent (25%) if the applicant has completed Pocatello's certification course or an accredited training program from another Idaho municipality. The fee for a permit shall be doubled if the construction activity is commenced prior to the issuance of the permit, except where an emergency situation has been recognized by the planning director. Payment of the doubled fee shall not preclude the county from taking any other enforcement actions within its authority.

E. The fee necessary to resubmit an application for an expired permit shall be one-half ( $\frac{1}{2}$ ) the regular fee for said permit.

## **430 TRAINING AND CERTIFICATION:**

A. All persons in charge of a construction site at the time of adoption of this ordinance shall have one hundred twenty (120) days to obtain a County approved certificate of training or an interim certificate. All subsequent site developments shall have a person possessing one of these certificates on staff, with direct control and authority, and immediately available upon the request of a county inspector.

B. A training program must be approved by the county and must include educational materials on the following subjects:

1. Ecological and resource value of the waters of the state and the U.S.;

2. The proper and effective methods of erosion and sediment control implementation and maintenance, and the benefits of such;
3. Recognition of improperly implemented erosion and sediment control BMPs and the methods of correction;
4. The purpose and provisions of any laws, regulations, and ordinances on erosion and sediment control, including this ordinance;
5. A description of sediment as a pollutant;
6. The processes of erosion, sediment transport, and sediment deposition;
7. The required responsibilities of supervisory and enforcement personnel pursuant to this ordinance;
8. The effect of storms on erosion control measures;
9. Emergency remedial action;
10. Dewatering practices;
11. Management of hillsides;
12. Proper measures for areas subject to flooding, including those outside the floodplain; and
13. The difference between erosion control and sediment control.

G. Certifications from other cities, states, or associations may be accepted upon approval of the county, when the applicant can demonstrate the prior certification was based on standards similar to those found in this ordinance.

## **440 WAIVERS AND VARIANCES:**

A. The county may waive or modify the requirement for all or part of the erosion control plan upon a determination that the plan or requirement is unnecessary due to the size, character or natural conditions of a site. This determination will be made based on submitted materials and documents from the applicant and, as needed, by a site visit by representatives of the county.

1. To obtain a waiver or modification, a written request must be submitted to the county, together with the completed permit application and the applicable fees, detailing each requirement for which a waiver or modification is sought, the reasons for the requested waiver or modification, and the potential impact of the waiver or modification.
2. The county may place conditions upon a grant of waiver or modification deemed necessary to substantially secure the objectives of the standards or requirements being waived or modified.
3. The county shall be responsible for ensuring that a waiver or modification would not adversely affect the public welfare or the interests of the county, and the general intent of this ordinance is preserved.
4. A request for waiver or modification, and the decision of the planning director related to such request shall be enclosed with and made part of the permit application and erosion control plan.
5. A denial of the waiver or modification may be appealed in accordance with the requirements of section 445 of this ordinance.

B. If undue hardship would result from strict application of the requirements of this ordinance, a variance may be requested.

1. The variance request must be submitted in writing to the planning director together with the applicable permit fee, and must detail the reason for the requested variance, including documentation, if necessary.
2. If a request for variance is denied, the denial may be appealed in accordance with the requirements of section 445 of this ordinance.
3. A variance shall not be considered a right or special privilege.

## **445 APPEALS:**

- A. Any person notified of a violation of this ordinance and ordered to perform corrective actions or other activities, or denied a request for waiver, modification, or variance (hereinafter "applicant"), or had a permit suspended or revoked, may request a reconsideration of the order and denial within ten (10) business days of receipt of the decision.
- B. A request for reconsideration shall be made in writing to the planning director and shall include the name and mailing address of the applicant, the specific detail as to the decision or order in question, and the reason the decision or order should be reconsidered.
- C. The planning director may render a decision based upon the record on file with the county, may take additional evidence and testimony to render a decision to affirm, modify or withdraw the order or decision, or may deny the request for reconsideration.
- D. For reconsideration of decisions on variance or waiver requests, no additional testimony or supporting evidence shall be considered by the county, absent a showing by the applicant that the new information was not reasonably known by the applicant at the time of the original request for variance or waiver.
- E. The planning director shall issue a decision on the request for reconsideration within fifteen (15) business days of receipt of said request. The decision shall be made in writing and shall be served upon the applicant by regular mail at the address provided by the applicant.
- F. The county's denial of reconsideration, or decision to affirm or modify the original order or decision, may be appealed by the applicant to the board of county commissioners. The appeal of the decision must be in written form and submitted to the Office of Planning and Development within five (5) business days of receipt of said decision to be appealed in the form provided by the Office of Planning and Development. The applicant shall have the right to address the board of county commissioners within 30 days to dispute the decision planning director's decision. The board of county commissioners may affirm, modify, or overturn the decision of the county, or may remand the issue back to the planning director for further proceedings, or for clarification of certain matters.

## **450 INSPECTIONS:**

All construction activities which require a permit under this ordinance shall be subject to the inspection provisions provided herein.

- A. The county maintains the right to inspect any site of construction activity that has been issued a permit under this ordinance or is required to have a permit issued under this ordinance.
- B. Sites operating with a site specific permit or a special site permit shall be required to undergo and pass a county inspection upon completion of the installation of perimeter erosion and sediment controls, and upon completion of the final grading and the permanent drainage and erosion control facilities. The permit holder shall be responsible for scheduling these inspections through the Office of Planning and Development Services. Inspections must be requested a minimum of twenty four (24) hours prior to the desired time of inspection, excluding Saturdays, Sundays, and holidays. Additional inspections may also occur as deemed necessary by the county.

C. When an inspection is required under this ordinance, no work shall proceed until completion of the inspection and approval from the authorized enforcement agent conducting the inspection.

D. A complaint of violation shall be promptly investigated by inspection. The complainant shall be notified of the results of the inspection in writing, and said written results and any enforcement action taken shall be retained in the county's building permit and violation records.

## **460 ADMINISTRATIVE ENFORCEMENT:**

In addition to any other remedies under this ordinance, a person or permit holder in violation of this ordinance may be subject to administrative enforcement procedures. The administrative enforcement procedures are not a prerequisite to any other remedy under this ordinance and if administrative enforcement is undertaken, any of the following procedures may be utilized regardless of the order in which they appear in this section.

A. If the authorized enforcement agent determines a violation of the approved erosion control plan is occurring or has occurred, the permit holder, or the designated authorized agent of the permit holder, may be notified by a correction notice or notice of violation. Both notification documents contain a description of the required corrective action and provide a time period in which the corrective action must be completed. A correction notice will not require a signature from the owner of the site or an agent representing the owner; however, a notice of violation shall require the signature of the owner of the site or an agent representing the owner.

B. If the corrective action requested in a correction notice or notice of violation is not completed in the specified time period, a stop work order may be issued by the county. The authorized enforcement agent shall determine the extent of the order, which may include all work except the corrective action. Once a correction notice and/or a notice of violation has been issued to a permit holder, if continuous violations occur on the permitted project, stop work orders or a citation may be issued without further issuance of a correction notice or notice of violation. The permit holder may be requested by the director of public works to respond in writing to multiple violations.

C. If no reasonable effort at corrective action is made, or if necessitated by emergency, the authorized enforcement agent may cause the corrective action to be performed and shall assess the actual and administrative costs of such performance against the property owner of the site.

D. A stop work order may be issued at any time if work is being done without a valid, current permit.

E. Administrative costs may be assessed to the property owner of the site if any administrative enforcement action is undertaken.

## **461 VIOLATIONS CONSTITUTE MISDEMEANORS:**

The knowing violation of any provision or failure to comply with any requirement of this ordinance shall constitute a misdemeanor and may be punishable by a fine up to one thousand dollars (\$1,000.00), imprisonment in the county jail up to six (6) months, or both. Each day on which a violation occurs may constitute a separate criminal offense.

## **462 VIOLATIONS DEEMED A PUBLIC NUISANCE:**

- A. In addition to any other remedies and penalties provided for by this ordinance, any condition caused or permitted to exist in violation of this ordinance shall be considered a threat to the public health, safety, welfare, and environment, and may be declared and deemed a nuisance by the county.
- B. Any condition deemed a nuisance by the county or an authorized enforcement agent may be summarily abated and/or restored by the county and civil actions may be taken to abate, enjoin, or otherwise compel the cessation of such nuisance.
- C. The cost of abatement and restoration shall be borne by the owner of the property or the permit holder for work done on the property, and shall be a lien upon and against the property and such lien shall continue until paid.
- D. The county shall seek from the violator, the payment of all costs of investigation, administrative overhead, out of pocket expenses, cost of administrative hearings, costs of suit and reasonable attorney fees for all administrative or civil proceedings for nuisance violations in which the county is the prevailing party, as authorized by state law.

## **465 CIVIL ACTIONS FOR VIOLATIONS:**

In addition to any other remedies provided for by this ordinance, any violation of this ordinance may be enforced by civil action brought by the county. In any such action, the county may seek any or all of the following:

- A. Temporary and/or permanent injunction;
- B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of a violation, and for the reasonable costs of preparing and bringing legal action under this provision;
- C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from a violation;
- D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life;
- E. Assessments and recovered damages under this provision shall be used exclusively for costs associated with implementing or enforcing this ordinance.

## **470 CONCEALMENT:**

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance shall constitute a violation of such provision.

## **475 NONEXCLUSIVE REMEDIES:**

All remedies and penalties under this ordinance are in addition to, and do not supersede or limit, any and

all other remedies and penalties, both civil and criminal. The remedies and penalties provided for herein shall be cumulative and not exclusive.

## **480 ACTS RESULTING IN VIOLATION OF FEDERAL LAWS AND REGULATIONS:**

Any person who violates any provision of this ordinance, any provision of any permit issued pursuant to this ordinance, or discharges any pollutant or causes pollution, or violates a cease and desist order or any requirement or prohibition, may also be in violation of federal laws or regulations, and may be subject to the sanctions of those laws or regulations, including civil or criminal penalties, notwithstanding any legal action taken by the county.

## **SECTION 500 DISCLAIMER OF LIABILITY:**

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and this ordinance does not imply that compliance will ensure against all unauthorized discharge of pollutants. This ordinance shall not create liability on the part of the county, any agent or employee thereof for any damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 600 EFFECTIVE DATE:**

This ordinance shall be in full force and effect upon its passage, approval, and publication.