

BANNOCK COUNTY STORMWATER MANAGEMENT ORDINANCE NO. 2024-03
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100 – BASIC PROVISIONS**101 - TITLE:**

This ordinance shall be known as the STORMWATER MANAGEMENT ORDINANCE of Bannock County, Idaho.

102 - PURPOSE:

The purpose of this ordinance is to:

- A. Provide for the health, safety, and welfare of the citizens within the unincorporated area of Bannock County which lies within the Municipal Separate Storm Sewer System (MS4) overlay area, by establishing minimum stormwater management requirements consistent with local, federal and state law and the requirements of the county's national pollutant discharge elimination system (NPDES) permit.
- B. Protect and enhance the water quality of our watercourses, water bodies, groundwater and wetlands in a manner pursuant to and consistent with the federal clean water act.
- C. Encourage the recharge of groundwater, where appropriate, and prevent the degradation of groundwater quality.

103 - APPLICABILITY:

This ordinance is applicable to all land development, including, but not limited to, applications for grading and building permits, site plan applications, and land division applications, unless exempt. These provisions apply to any new development or redevelopment site within the unincorporated area of Bannock County which lies within the (MS4) overlay area.

104 - SEVERABILITY:

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

105 - 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 discharges 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, except as otherwise provided and limited pursuant to the Idaho tort claims act.

200 - DEFINITIONS:

APPLICANT: A person, party, firm, corporation, owner, or other legal entity that proposes a development, construction or use on a site.

BEST MANAGEMENT PRACTICES OR BMPs: The schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to receiving waters.

BUILDING: Any structure built for the support, shelter or enclosure of persons, animals, uses or property of any kind.

CWA: The federal clean water act, Pub. L. 92-500, as amended in Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 USC 1251 et seq.

CHANNEL: An open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water.

CONSTRUCTION: Clearing, grading and/or excavation or the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

DESIGN STORM: A prescribed hyetograph or precipitation distribution, and the total precipitation amount for a specific duration recurrence frequency to be used in design calculations.

DETENTION: The release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DEVELOPMENT: New development, redevelopment, or both. See definitions of New Development and Redevelopment.

DISCHARGE: Any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to UIC wells, waters of the state or county stormwater facilities.

DRAINAGEWAY: An open linear depression, whether constructed or natural, which functions for the collection and drainage of surface water. It may be permanently or temporarily inundated and may or may not contain aquatic vegetation or aquatic life.

EASEMENT: A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

GRADING: Any excavation, filling, or combination thereof.

IMPERVIOUS SURFACE: A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. It includes most conventionally surfaced streets, roofs, sidewalks, driveways, parking lots, patios and other similar structures.

INFILTRATION: The downward movement of water from the land surface to the subsoil.

LAND DISTURBING ACTIVITY: Any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, and excavation. Compaction associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity.

MAINTENANCE: Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

MAINTENANCE AGREEMENT: A legally recorded document that acts as a property deed restriction, and which provides for long term maintenance of stormwater management practices.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM OR NPDES: The national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal clean water act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in the state of Idaho, are administered by the U.S. environmental protection agency.

NEW DEVELOPMENT: Land disturbing activities, including construction or installation of a building or other structure; creation of impervious surfaces; and subdivision, short subdivision and binding site plans.

OWNER(S) OR PROPERTY OWNER(S): The legal owner or owners of the property. As used herein, owner also refers to, in the appropriate context: a) any other person authorized to act as the agent for the owner; b) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence; and c) any person responsible for complying with an approved stormwater site plan.

PERMANENT STORMWATER BMP: A stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

PERSON: Any individual, party, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent. The singular shall include the plural.

POLLUTANT: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, domestic sewage sludge (biosolids), munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste. This term does not include sewage from vessels within the meaning of section 312 of the CWA, nor does it include dredged or fill material discharged in accordance with a permit issued under section 404 of the CWA.

PROJECT SITE: That portion of a property, properties, or right of way subject to land disturbing activities, and new or replaced impervious surfaces.

PUBLIC: Any real property, or interest therein, belonging to Bannock County, or a trust or authority of which Bannock County is a beneficiary. Public development shall also include private development whenever all or a portion thereof will eventually be dedicated or provided for ownership, operation and/or maintenance to Bannock County, or a public trust or authority of which Bannock County is a beneficiary.

PLANNING DIRECTOR: The duly appointed director of the Planning and Development office or his or her designee.

RECEIVING WATER: The body of water or conveyance into which stormwater runoff is discharged.

REDEVELOPMENT: Means, on a site that is already substantially developed, the replacement or improvement of impervious surfaces, including buildings and other structures, and replacement or improvement of impervious parking and road surfaces that is not part of a routine maintenance activity. Any new impervious surfaces created by a redevelopment project are subject to the requirements for new development.

RESPONSIBLE PARTY: Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns that are named on a stormwater maintenance agreement as responsible for long term operation and maintenance of one or more stormwater BMPs.

RETENTION: The process of collecting and holding surface and storm water runoff with no surface outflow.

SOURCE CONTROL BMPs: Physical, structural or mechanical devices or facilities that are intended to prevent pollutants from entering stormwater.

STORMWATER: Runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow.

STORMWATER CONTROL FACILITIES: Any facility, improvement, development, property or interest therein, made, constructed or acquired for the purpose of controlling, or protecting life or property from, any storm, waste, flood or surplus waters wherever located within the county.

STREAM: An area where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the passage of water including, but not limited to, hydraulically sorted sediments, or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial drainageways, unless they are used to convey streams naturally occurring prior to construction.

STRUCTURE: Anything constructed or erected, even partially, including buildings, which requires location on the ground or attached to something having a location on the ground.

UNDERGROUND INJECTION CONTROL OR UIC OR UIC WELL: A manmade subsurface fluid distribution system designed to discharge fluids into the ground and consists of an assemblage of perforated pipes, drain tiles, or other similar mechanisms, or a dug hole that is deeper than the largest surface dimension. A public UIC is one owned, operated, and maintained by the county and includes the collection system of catch basins, pipes, ditches, or other public infrastructure that collects and conveys stormwater to the UIC.

UPLAND FLOW: Runoff from lands upslope of a project site.

WATERS OF THE STATE: Includes those waters defined as "waters of the United States" in 40 CFR 122.2 within the geographic boundaries of the state of Idaho and "waters of the state" as defined by section 39-103, Idaho Code, which is all accumulations of water, surface and underground, natural and artificial, public and private or parts thereof, which are wholly or partially within, flow through, or border upon this state except for private waters as defined in section 42-212, Idaho Code.

WETLAND(S): That area inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites unless those artificial wetlands are to mitigate conversion of wetlands, if permitted by the count.

300 – GENERAL REGULATIONS

301 - STORMWATER MANUAL:

Stormwater management practices shall be designed, constructed, and maintained in accordance with the design and sizing criteria in the "Portneuf Valley Stormwater Design Manual" (PVSDM), as adopted by the City of Pocatello, and as may be amended from time to time. Where referenced by this ordinance, the most current adopted version of the PVSDM is to be used.

302 - REGULATORY CONSISTENCY:

This ordinance shall be construed to assure consistency with the requirements of the federal clean water act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and the municipal NPDES permit and any amendments, revisions or reissuance thereof. 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.

303 - DRAINAGE EASEMENTS:

Drainage easements shall be required where a development or redevelopment is traversed by a drainageway, channel or stream. The following conditions shall apply to all easements:

- A. A stormwater easement or drainage right of way shall conform substantially with the lines of the drainageway, channel or stream.
- B. Measures shall be taken to prevent down gradient impacts as a result of new development or redevelopment where no conveyance system exists at the adjacent down gradient property line or stream, and the discharge was previously unconcentrated flow or significantly lower concentrated flow.
- C. Easements may not be obstructed by structures, including fences, or filled.
- D. Easements shall be of a width for construction, or maintenance, or both, as will be adequate for the purpose. Width must be able to convey the 100-year, 24-hour storm and shall be no less than twenty feet (20') wide. Parallel streets or parkways may be required in connection therewith.
- E. The costs of repairs, maintenance, removing structures or other drainage impediments shall be the responsibility of the grantor. Should the grantor neglect to do so, easement terms must allow for Bannock County to perform maintenance and repairs on said stormwater management facility(ies). For the purpose of inspection, maintenance and repair, the easement must ensure access from public right of way to stormwater facilities and drainageways.
- F. Easements shall be approved by Bannock County prior to approval of a final plat or issuance of a certificate of occupancy and shall be recorded with Bannock County and on all property deeds.
- G. A deed of easement shall be recorded, or shown on a recorded subdivision plat, prior to the stormwater certificate of completion.

304 - INSPECTIONS:

A. The property owner shall notify Bannock County when construction has started. Regular inspections of the stormwater management system construction shall be conducted by planning director or her/his designee. All inspections shall be documented. If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the planning director.

305 - OPERATIONS AND MAINTENANCE (O&M):

A. Responsible Party: Owners are responsible for the operation and maintenance of stormwater facilities on their property.

B. Requirement For O&M Agreement: If a project requiring a stormwater site plan requires structural or nonstructural measures, the owner shall execute an O&M agreement prior to the county granting final approval of any development plan or other development for which a permit is required under this title. The stormwater O&M agreement shall be recorded in the office of the Bannock County clerk and shall run with the land.

C. Required Elements for Stormwater O&M Agreement: The O&M agreement shall be in a form approved by the county, and shall, at a minimum require the owner of the property, including successor owners, to maintain the stormwater system on the property so that the system continues to function as planned. It shall include a county approved O&M plan detailing inspection, maintenance and reporting responsibilities.

D. Maintenance Responsibility: In accordance with the county approved O&M plan, property owners shall maintain in good condition and promptly repair and restore all structural and nonstructural stormwater BMPs, and all necessary access routes and appurtenances (e.g., graded surfaces, walls, drains, check dams and structures, UICs, catch basins, pipes, vegetation adjacent to the inlets and within the facility, erosion and sedimentation controls, and other protective devices).

E. Maintenance Records Required: The owner or other responsible party shall make at least annual inspections of the facilities and maintain records of such inspections. Most O&M plans will require more frequent inspections. Stormwater BMP inspection, maintenance and repair records shall be retained by the owner or their designee for a period of five (5) years, and shall be made available to the county upon request.

F. Maintenance Inspection by the County: The county shall retain the right to conduct periodic inspections for all stormwater BMPs, which shall be documented in writing. The inspection shall document any maintenance and repair needs, and any discrepancies from the stormwater system maintenance agreement.

G. Failure to Provide Adequate Maintenance: If the property owner, operator, or successor, fails or refuses to meet the maintenance requirements specified in the O&M

plan, the planning director may issue a correction notice and with a minimum of thirty (30) days written notice, complete the necessary maintenance at the owner's/operator's expense. In the event that the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hour notice shall be sufficient.

400 – ADMINISTRATION AND ENFORCEMENT

401 - ADMINISTRATIVE ENFORCEMENT:

A. Correction Notice: When the county determines that an activity is not being carried out in accordance with the requirements of this ordinance, the planning director shall issue a written correction notice to the owner of the property. The correction notice shall contain a description of the remedial measures necessary to bring the development activity into compliance with this ordinance and a time schedule for the completion of such remedial action;

B. Stop Work Order: Persons receiving a correction notice may be required to halt all construction activities. This "stop work order" will be in effect until the planning director confirms that the development activity complies with ordinance and the violation has been satisfactorily addressed. Failure to address a "stop work order" in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

402 - VIOLATIONS CONSTITUTE MISDEMEANORS:

The 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.

403 - VIOLATIONS DEEMED A PUBLIC NUISANCE:

A. In addition to the criminal penalties provided in section 402 of 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 other authorized enforcement agent may be summarily abated and/or restored by the county or its contractor. The cost of abatement and/or restoration shall be borne by the owner of the property and/or the permit holder for the work done on the property, which liability shall be joint and several. Whereupon the county is authorized, pursuant to Idaho Code 50-334, to lien the subject property and/or pursue a civil action in district court to recover the costs incurred by the county to abate the nuisance and/or enjoin or otherwise compel the cessation of such nuisance.

404 - 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.