

Chapter 8-17

CONSTRUCTION SITE EROSION CONTROL ORDINANCE

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Section 8-17-01 TITLE, PURPOSE AND GENERAL PROVISIONS

8-17-01.1 Title

This Ordinance shall be known as the “Construction Site Erosion Control Ordinance.

8-17-01.2 Purpose and Intent

The purpose and intent of this Ordinance is to:

- A. Promote and protect the health, safety, and general welfare of the citizens of the City of Boise and enhance and preserve the quality and value of our resources by regulating construction activities.
- B. 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 the City of Boise.
- C. Manage and control the amount of pollutants in stormwater discharges, soil erosion, sediment discharge, and mud and dirt deposits on public roadways caused by or a result of construction activities.
- D. Ensure adequate drainage, stormwater management and soil conservation measures are utilized at the site of any construction activity.
- E. Restore and maintain water quality by reducing solid particulate matter emissions caused by construction activities on site.

(Ord-48-14, 12/16/14 Amended)

8-17-01.3 Definitions

The terms as used in this Ordinance shall have the following meanings:

- A. Authorized Enforcement Agent. The Director of the Boise City Department of Planning and Development Services and/or any individual designated by the Director of the Boise City Department of Planning and Development Services as an Authorized Enforcement Agent. The Authorized Enforcement Agent must complete initial training regarding proper control measure selection, installation and maintenance as well as administrative requirements such as inspection reporting and tracking and the implementation of enforcement actions. The Authorized Enforcement Agent must also complete annual refresher training to receive updates on preferred BMPS, regulation changes, permit updates and policy or standards updates.
- B. Best Management Practices (BMPs). Physical, structural, and/or managerial practices that, when used alone or in combination, control activities including, but not limited to, site run-off, spillage

and leaks, and waste disposal, and prevent or reduce the discharge of pollutants directly or indirectly to waters of the State or U.S. BMP's may include schedules of activities, prohibition of practices, design standards, educational activities, and treatment requirements.

- C. Clean Water Act (CWA). Federal Water Pollution Control Act enacted by Public Law 92-500 as amended by Public Laws 95-217, 95-576, 96-483, and 97-117, enacted at 33 USC 1251 et seq.
- D. 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 180 calendar days (see also to Section 8-17-02.2G,11), and hauling of soil and rock; explosive and abrasive blasting; implosion; handling of building materials; concrete, stone and tile cutting; operation of motorized and non-motorized machinery; and operation of motor vehicles on the site, staging areas, parking areas, storage areas, or any access routes to the construction site.
- E. Director. The Director of the Boise City Department of Planning and Development Services.
- F. Environmentally Sensitive Area (ES). Projects located within 50 feet of the Boise River,
- G. 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.
- H. Erosion Control Plan. Details of the concepts and techniques, including BMP's, 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.
- I. Final Stabilization.
 - 1. All soil disturbing activities at the site have been completed and one of the three following criteria are met:
 - a. A uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the vegetative cover existing prior to earth-disturbing activities for the area has been established on all unpaved areas and areas not covered by permanent structures¹. For all areas designated as Hillside or Foothill area, the minimum acceptable plant coverage shall meet the stabilization requirements set forth in Boise City Code Hillside and Foothill Areas Development Ordinance, Chapter 11-14.
 - b. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed to provide effective cover.
 - c. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance. The temporary erosion control measures must be selected, designed, and installed to achieve 70 percent vegetative coverage within three years.
 - 2. For construction projects on land used for agricultural purposes (e.g. pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to "water of the United States," and areas which are not being returned to their preconstruction agricultural use must meet final stabilization criteria.

¹ When background native vegetation will cover less than 100 percent of the ground (e.g. arid areas, beaches), the 70 percent coverage is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent ($0.70 \times 0.50 = 0.35$) would require 35 percent total cover for final stabilization (e.g. On a beach with no natural vegetation, no stabilization is required).

- J. Fugitive Dust. Particulate matter suspended in the air primarily from soil that has been disturbed by wind or human activities, such as earthmoving and vehicular and equipment traffic on unpaved surfaces. Fugitive dust does not include emissions from vents, chimneys, or stacks.
- K. Hazardous Waste. Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the state to be a “hazardous waste”, “hazardous material” or “hazardous substance” as those terms are defined by federal or state law.
- L. Illicit Discharge. Any discharge to a storm drain system that is not composed entirely of stormwater, except discharges pursuant to a NPDES permit, discharges resulting from fire fighting Discharge Control Ordinance.
- M. 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, clearing, 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.
- N. National Pollutant Discharge Elimination System (NPDES) Permit. A storm water discharge permit issued by the U.S. EPA, Region X, in compliance with the federal Clean Water Act and its amendments.
- O. PDS. The Boise City Department of Planning and Development Services.
- P. The erosion control permit issued by the Director of Planning and Development Services authorizing performance of a construction project
- Q. Permit Holder. The person who applies his or her signature for an erosion control permit.
- R. 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.
- S. Pollutant. Objects including, but not limited to, dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, silt, cellar dirt, industrial, municipal and agricultural waste, gases entrained in water, paints, oil and other automotive fluids, soil, rubbish, trash, debris, refuse, heavy metals, hazardous waste, road sanding materials, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, and nauseous or offensive matter of any kind, which, when

discharged to water, cause or contribute to water pollution.

- T. Pollution. The degradation of the physical, thermal, chemical, biological or radioactive properties of the air and the waters of the state or U.S.; the discharge of any pollutant into the air stream 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.
- U. Premises. Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.
- V. Public Nuisance. Any condition which affects others beyond the property line and is injurious to health, offensive to the senses, or constitutes an obstruction to the free use of property and interferes with the comfortable enjoyment of life or property.
- W. Public Works. Any construction project for the benefit of the public on behalf of the State of Idaho, any county or municipal corporation within the State of Idaho, or any other public board, body, commission, agency or entity.
- X. Responsible Person. Any foreman, superintendent, project manager, or other person with operational control over site activities and day to day operational control over plan requirements and permit conditions at the site of any construction activity. A person or persons possessing a current and valid Boise City Certificate of Training, as provided for in section 8-17-02.6, shall be directly in charge of all sites of construction activity regulated by this Ordinance.
- Y. 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.
- Z. Stop Work Order. Posted on site or given to the contractor/responsible person. Only work allowed under a stop work order will be at the discretion of the authorized enforcement agent, which could include that all construction activities are halted, except those activities directed to achieve compliance to the violations.
- AA. Storm Drain System. Facility by which storm water may be collected and conveyed to waters of the state or U.S.
- BB. Stormwater. Surface runoff and drainage associated with rain storm events and snow.
- CC. Stormwater Pollution Prevention Plan (SWPPP). A site-specific, written document that identifies potential sources of stormwater pollution at the construction site. The SWPPP describes practices to reduce pollutants in stormwater discharges from the construction site, describes how reduction of pollutants can be achieved, and identifies procedures the operator will implement to comply with the terms and conditions of the Construction General Permit, (CGP).

- DD. U.S. EPA. United States Environmental Protection Agency.
- EE. Variance. A modification of the requirements of the Ordinance based on hardship.
- FF. Verbal Correction Notice. Verbal corrections are used for minor violations and are primarily consultative in nature. Verbal corrections shall include the specific violation(s) which require corrective action and will contain the timeframe for the necessary corrections.
- GG. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (IDAPA 58.01.02.010.113).
- HH. Waters of the United States. 40 CFR 230.3(s) and related revisions shall be incorporated by reference.
- II. 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.
- JJ. Written Correction Notice. Written correction notice will be prepared by the authorized enforcement agent and submitted to the operator/responsible person or posted on site. The notice will include the nature of the violation/s and the required timeframe for correcting the violation.
(Ord-48-14, Amended, 12/16/14)

8-17-01.4 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 corporate limits of the City of Boise. Indirect association requires a cognizable nexus between the activity involved and the construction project, but does not require a primary or direct connection.

8-17-01.5 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 the City of Boise; and any other provisions of the Boise City 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.

8-17-01.6 Severability

If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.
(6098, Added, 11/13/2001)

8-17-02.1 General Requirements and Prohibitions

- A. Every person shall obtain an erosion control permit (hereinafter permit) before commencing any construction activity, unless performing work covered by an existing Boise City approved erosion control permit or otherwise exempted by this Ordinance.
- B. Erosion, sediment, fugitive dust 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. An erosion control permit and plan is required for land disturbing or other construction activities. No final plat, subdivision site development plan, site plan, grading permit, building permit, or City of Boise shall be approved without an approved erosion control plan.
- 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. 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 from migrating offsite and entering the public right-of-way or a storm water system. Soil or aggregate stockpiles shall not be stored on unoccupied, vacant, unused, or undeveloped property unless permitted by the City and such control measures are in place. This provision is not meant to prevent individual homeowners from accepting title of land that is not yet landscaped, and such homeowners will not be in violation of this Ordinance.
- G. All sites are required to be stabilized. Existing vegetation must be preserved where possible and disturbed portions of the site are stabilized. Operators of the sites must initiate stabilization measures, except as provided below, as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. Following exceptions are:
 - 1) Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
 - 2) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days after construction activity, temporary stabilization measures do not have to be initiated on that portion of the site
 - 3) During the summer months when perennial vegetative stabilization measures are not

possible within 14 days after construction activity has temporarily or permanently ceased. Temporary stabilization measures must be in place until final vegetative stabilization measures can be completed.

- H. All construction projects which hold an erosion control permit shall display a sign at the main entrance of the property indicating the address of the property, if one has been assigned, or a lot or block number, the ESC permit number, the EPA permit number (if applicable), the Responsible Person's name and phone number, the Stormwater Pollution Hotline phone number, and the location of the Federal Notice of Intent (NOI), and the Stormwater Pollution Prevention Plan (SWPPP) The City of Boise shall provide the materials for the signs. All required writing on the signs shall be legible and of sufficient size to be easily read from the street.
- I. In order to avoid pollutants from being discharged into Waters of the State and Waters of the U.S. and, the generation of dust must be minimized to the Maximum Extent Practicable (MEP). No person shall cause, suffer, allow or permit crushing, excavation, screening, drying, handling or conveying of materials, stockpiling, sandblasting and related abrasion operations, demolition operations or any other operation likely to cause fugitive dust, or other airborne material, such as sand or abrasive materials unless reasonable control measures are in place to prevent particulate matter from becoming airborne. All reasonable precautions shall be taken to prevent fugitive dust.
- J. In order to avoid pollutants from being discharged into surface waters, pollution prevention control practices shall be implemented.
- K. All temporary erosion and sediment control measures shall be removed after final site stabilization. The permit holder shall be responsible to inspect and maintain controls until the site is stabilized, by definition set forth in the Ordinance. Projects that are part of a larger common plan of development or sale may leave BMPs in place after final stabilization has been achieved only when another project within the same drainage area assumes ownership.
- L. The permit, permit conditions, erosion control plan, inspection reports and any other document pertaining to the permit shall be readily available during construction for on-site inspection by the authorized enforcement agent.

(Ord-48-14, Amended, 12/16/14)

8-17-02.2 Erosion Control Permits

A. The following categories of permits shall be issued upon approved application: An Erosion Control Plan (ECP) is required on all site specific, special site projects (including single-family residential projects) and annual permits. Applicants may submit a Plan Waiver Request Letter in lieu of an ECP for minor disturbances:

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 sites:
 - a. Development regulated by the City of Boise Hillside and Foothill Area Development Ordinance, Boise City Code Title 11.
 - b. Pre-development slopes greater than 15 percent.
 - c. Ground disturbance of a natural vegetative buffer within fifty (50) feet of wetlands or water bodies.

- d. Sites located entirely or partially within an environmentally sensitive area as declared by the Director or state or federal authorities.
 - e. Any other site determined by the Director to have conditions necessitating additional control measures.
- 4) **Annual Permit.** Issued for minor disturbances, which are not exempt by this ordinance. This permit may include utility installation, project staging areas, stockpile storages and other activities.
- a) The permit will be issued to a single permit holder for minor projects valid for one year from the permit issue date.
 - b) The permit will cover the following activities
 - i. Projects where disturbances are 100 lineal feet or less of lineal construction (utilities)
 - ii. Equipment staging and/or stockpile soil areas of equal to or less than one quarter (1/4) acres
 - iii. Sign installation throughout the city limits of Boise
 - c) Holders of annual permits are required to notify the City of Boise Planning and Development Services of upcoming projects prior to the start of work.

B. Applications for permits shall be made on forms provided by the City of Boise Department of Planning and Development Services (PDS) and shall be accompanied by the applicable fee or fees. In addition, applications for site specific permits or special site permits and annual permits shall be accompanied by two copies of an erosion control plan which is in compliance with the provisions of this Ordinance. No permit requiring an erosion control plan shall be granted unless the erosion control plan has been approved by PDS.

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

D. 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 in section 8-17-02.1, paragraphs B, E, F, H, I, J, K, L, and M, N, O, P, Q, R, S, T, U, V, W, and X.

E. A surety bond may be required prior to issuance of a permit. The surety bond shall be in a form and amount necessary to ensure the ability to correct any deficiency caused from the failure to comply with the conditions of the permit. The Director may also approve the use of a cash bond or instrument of credit in lieu of the surety bond. Existing surety bonds may be utilized upon approval of the Director. The bond shall remain in effect until the site has achieved final stabilization at which time the permit may be finalized.

F. No construction activity shall take place without a valid permit, unless otherwise authorized or exempted under this ordinance. Persons performing activities which are exempt from securing a permit shall be responsible to retain sediment and other pollutants from leaving the work site. Should sediment and/or other pollutants not be retained on site, the inspector may require the operator to secure an Erosion Control Permit. As well, other enforcement actions may be applicable depending on the severity of the violations(s). These actions may include but are not limited to verbal notice,

written correction notices, stop work orders, notice of violation, and civil action. The following construction or land disturbing activities do not require a permit as long as no sediment or other pollutants enter the MS4 system or leaves the work site.

1. Repair, replacement, and utility work which occurs entirely on a residential lot.
2. Drain tiling, tilling, or planting incidental to agricultural crops, and harvesting of agricultural, horticultural or silvicultural (forestry) crops.
3. Installation of fence, sign, telephone, electric poles, and other types of posts and poles that involves less than two cubic yards of excavation in any one location.
4. Emergency repairs or emergency work necessary to protect life, limb or property. PDS shall be notified of emergency work within 3 business days of the work beginning. The Director may require a permit after the repair has been performed.
5. Parking lot and driveway repair. A permit is not required if less than 10% of the total area of hard surface is removed. Areas exceeding 10% will be required to secure a permit.
6. Construction activity that occurs entirely on federal or state owned lands.
7. 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.
8. Construction, maintenance, and any other land disturbing activity on canals, laterals, sub-laterals, ditches, drains, and other water conveyance facilities, and all appurtenant roadways and structures, which occurs within the fee title lands, right-of-ways, 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.
9. Holders of a Federal Multi-Sector General Permit (MSGP) when the land disturbance is a result of the MSGP sector activity.
10. Demolitions in which a building permit is not required. Where a building permit is required, then an erosion control permit shall be required.
11. Utility trenching less than 50 lineal feet where no dewatering of the trench is needed.

(Ord-48-14, Amended, 12/16/14)

- 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.
- H. The permit may be suspended or revoked 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. Notice shall be given by the City of the intent to suspend or revoke a permit, and this decision may be appealed in accordance with the provisions of section 8-17-03.2.
- J. A permit will be null and void if work has not started within 180 days from the date of issuance or if work is abandoned for 180 days. An active permit is one where the site controls continues to be installed, inspected and maintained by the site operator or RP and a requested ESC inspection has not been requested and performed within a six month time from the last City inspection. 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 by PDS.
- K. Once final landscaping and or final stabilization have been completed and the erosion control permit receives final inspection approval the conditions of the permit shall cease. Any charges, fees, clean-up costs and penalties must be paid before a permit receives final inspection approval or a letter of completion. Final inspection approval for a phased development permit shall not be issued until all lots have been completed or a legal transfer of ownership has occurred.
 - L. In cases where another person wishes to continue or complete work previously commenced under a permit, this 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.
 - M. Permits may be transferred to other persons upon approval of the Director 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 Director within ten 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 8-17-03.2.

(Ord-48-14, Amended, 12/16/14)

8-17-02.3 Erosion Control Plans

- A. An Erosion Control Plan (ECP) or Stormwater Pollution Prevention Plan (SWPPP) submitted with an application for a permit must bear the signature and certification number of an individual who has successfully completed a Boise City 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 PDS shall review all submitted ECPs and issue a permit for each approved ECP.
- C. An ECP may be approved in whole or in part. If only part of the erosion control plan has met approval, only that section of the project for which the plan has been approved, shall be allowed to commence.
- D. If an ECP is not approved, a permit will not be issued, and the applicable construction activity will not be allowed to commence. Notice of this decision shall be sent 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 ECP pursuant to the provisions of section 8-17-03.2.
- E. ECP's shall include the following:
 - 1. ECP 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. This report shall be typed except for computational sheets, in good technical form, on 8.5"x11" paper and bound in a covered binder. Maps, diagrams, and figures, shall be clearly labeled and folded to fit within the report. The report shall contain the title on the outside of the binder and include a title sheet, table of contents, list of figures and tables, and the narrative or body, in that order. The narrative shall contain an introduction, analysis, and conclusion.
 - 2. A 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. Benchmark.
 - f. Surface water and wetlands, drainage patterns and watershed boundaries, if present.
 - g. Location of vegetative cover.
 - h. Location of BMPs.
 - i) Dewatering channels, basin(s), advanced treatment system (ATS) and other BMPs for dewatering.
 - j) Authorized non-stormwater discharge(s).
3. A topographic survey showing drainage and irrigation water conveyance systems and finished grade contours at two foot intervals. Sites less than one acre, with less than two percent cross grades, may submit grade spot elevations of the property line and other required points in lieu of the topographic study.
 4. Provide notification to the construction site operator(s) if the project is required to obtain coverage under the NPDES Construction General Permit.
 5. Provide contact information for other agencies requiring notification of any activity related to the permit as applicable.
 6. A description of the receiving waters.
 7. A plan of new or modified drainage systems, including system dimensions.
 8. All located in areas which are regulated by the Boise Foothills Development Ordinance (Boise City Code Title 11, Chapter 14) 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, may be required if a determination is made that additional information is necessary to assess the ECP.
 9. Location and schedule of soil disturbance.
 10. A description of all applicable sediment, erosion, runoff, administrative and good housekeeping controls to be implemented.
 11. A BMP inspection and maintenance schedule.
 12. The final vegetation, landscape, and permanent stabilization measures.
 13. The name, title, address, and telephone number of the land owner or owner's representative.
 14. 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 should be included or cited by reference.
- 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 storm water management plan in lieu of submitting a new ECP.
- G. ECP 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 PDS to be minor may be approved on site by an authorized enforcement agent without the need for a formal application and fee payment. The authorized enforcement agent shall document the modification

on a field report or correction notice, and the approved plans, with a dated signature.

- H. If an authorized enforcement agent determines the facilities or techniques of an ECP are not effective or sufficient after prior approval, and is having an impact on public property or private property not controlled by the permit holder, or is placing Boise City in violation of its NPDES permit, the agent 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 enforcement agent or PDS may be appealed pursuant to section 8-17-03.2.
- I. Emergency control measures may be ordered when erosion products are actually leaving the site or sediment deposition is occurring. These measures will not relieve the duty to file a revised plan if ordered.

(Ord-48-14, Amended, 12/16/2014)

8-17-02.4 Erosion, Sediment and Fugitive Dust 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 of Stormwater Best Management Practices for Idaho Cities and Counties* or the manufacturer's specifications, and shall be based on the following conditions, goals and expectations:

- A. Minimization of soil exposure, through phasing of projects;
- B. Prevention of landslides, slope failures, gully developments and hill erosion at hillside locations;
- C. Establishment of final stabilization measures of exposed soil areas resulting from land disturbing activities (refer to Final Stabilization under 8-17-01.3 Definitions);
- D. All necessary action shall be taken to minimize the depositing and tracking of mud, dirt, sand, gravel, rock or debris on 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 clean-up 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 City for any expenses incurred by the City to effectuate the clean-up;
- E. 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;
- F. Prevention of sediment damages to storm drain systems;
- G. Use of temporary sediment basins in compliance with the Federal Construction General Permit;
- H. Control of stormwater discharge to minimize downstream erosion;
- I. Stabilization of waterways and outlets prior to conveying water;
- J. Protection of stormwater inlet structures from sediment during construction;
- K. Washout basins for concrete, stucco, non-VOC paints, drywall adhesive and similar substances;

- L. Construction of access routes;
- M. Control measures for disposal of sediment from temporary erosion and sediment control devices;
- N. Maintenance of erosion and sediment control facilities and practices and installed best management products so they remain effective;
- O. Control measures to accommodate construction material delivery and construction site parking;
- P. Control measures for disposal of construction and building waste used during construction and site cleanup;
- Q. Stormwater run-on and runoff controls;
- R. Provisions for dust suppression, including treatment of disturbed surface areas with dust suppressants during all activities until site stabilization has occurred. These provisions must include one or any combination of the following:
 - 1) Application of chemical stabilization to un-stabilized roads, vehicle parking areas, or other disturbed surface areas.
 - 2) Application of dust suppressants on disturbed surface areas.
 - 3) Application of water to disturbed surface areas or prior to initiating any construction activity.
 - 4) Sweeping and cleaning street locations used for vehicle exits from construction sites.
 - 5) Application of temporary seed, vegetation or other control methods approved by PDS.
 - 6) Sequencing of activities.
 - 7) Preservation of vegetation.
 - 8) Monitoring of local weather forecast.
- S. Dewatering process and procedures which will remove pollutants in discharges that will comply with all applicable Water Quality Standards for the receiving waters;
- T. Maintain adequate buffers or equivalent between construction limits and Waters of the U.S and Waters of the State to comply with Idaho Water Quality Standards and consistent with the most current Construction General Permit;
- U. Turbidity Monitoring may be required at construction sites that directly discharge to a water body, as required by the most current Construction General Permit or the State of Idaho;
- V. For sites disturbing one acre or greater, soil compaction shall be minimized on areas of the site where final vegetative stabilization will occur or where surface infiltration practices will be installed. If soil compaction cannot be avoided, appropriate soil conditioning techniques shall be used;
- W. For sites disturbing one acre or greater, native topsoil shall be preserved unless it is not technologically possible or economically practicable;
- X. Removal of all structural Best Management Practices upon achieving final stabilization of the site.

(Ord-48-14, Amended, 12/16/2014)

8-17-02.5 Self Inspections and Corrective Action

- A. All permitted sites shall conduct self-inspections to verify compliance with the permit conditions and this ordinance. The inspection reports shall be documented and kept with the permit and/or Erosion Control Plan.
- B. Inspections shall be performed at least monthly and after a storm event of 0.25 inches or greater within one business day of the storm event.
- C. All projects discharging to a water body impaired for sediment or a sediment-related parameter, per the most current Idaho DEQ Integrated Water Quality Monitoring and Assessment Report, must inspect the site every 7 days and after a storm event of 0.25” or greater.
- D. Corrective actions must be initiated within 24 hours of identifying a violation and shall be completed within 7 days. If it is infeasible to complete the corrective action within 7 days, the reason must be documented.

8-17-02.6 Permit Fees

- A. The City maintains the right to prescribe and regulate the fees or charges associated with obtaining a permit pursuant to this Ordinance.
- B. The City shall set reasonable fees for the application for a permit. Such fees shall be required upon initial application, as well as for any requests for modifications of erosion control plans and requests for variances. If, after review of the plan, it is determined by the Director an incorrect fee has been collected, the fee will be adjusted to the correct amount.
- C. The required permit fees are 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. The permit fees shall be as follows:

Permit Fees	
Sites less than but not equal to 1.5 acres	\$78.75
Sites equal to or greater than 1.5 acres	\$78.75 for the first 1.5 acres, \$52.50 per acre for the remainder or portion of acre
Utility Trench Excavation	\$52.50
Special Site Fee (in addition to the applicable fee from 1-4, above)	\$78.75
Permit Transfer Fee	\$52.50
Modification Request Fee	\$78.75
Variance and Waiver Request Fee	\$78.75
After Hours Inspection Fee (per hour)	\$83
Re-inspection Fee	\$55

- D. The above listed fees 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 Director. Payment of the doubled fee shall not preclude the City 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 the above listed fees.
- F. A re-inspection fee shall be assessed for the following:
 - 1) If a site fails the initial site preparation inspection after it has been called in and requires any additional site preparation inspections, the re-inspection fee may be assessed.
 - 2) If a stop order is issued, the re-inspection(s) required to lift a stop work order will be assessed the re-inspection fee.

8-17-02.7 Training and Certification

- A. Any person who successfully completes a City approved training program shall receive a Boise City Certificate of Training, upon payment of a \$25.00 certification fee. Successful completion of the applicable Boise City Certificate Training Program shall authorize the person to perform the functions of Plan Designer or Responsible Person as specified by the certificate.
- B. Interim certificates can be obtained prior to the completion of a City approved training program by submitting an enrollment request form to the PDS with an interim certification fee of \$10.00. An interim certificate issued by the City shall remain for 90 days; holders will be required to attend an approved training class prior to the 90 day expiration period. Interim certificates are not renewable.
- C. The enrollment request form for an interim certificate or the training program shall contain the name, address and telephone number of the person receiving the certification, as well as that person's employer, and a brief description of the duties performed by the person to receive the certification.
- D. A certified Responsible Person shall be directly in charge of all sites of construction activity regulated by this Ordinance. A Responsible Person must meet one of the following requirements:
 - 1) Certified Responsible Person (RP)
 - 2) Interim certificate holder
 - 3) Certified Homeowner certification (HOC) may be used for day-to-day control over the erosion control permit, plan and/or conditions in lieu of the regular RP certification under the following conditions:
 - a) Single family remodel and additions (not new structures);
 - b) Sites are not located in environmentally sensitive areas (ES);
 - c) An onsite conference with a City of Boise Erosion Inspector is required prior to commencing any land disturbing activities. The conference will be scheduled by the HOC after the Boise City permits have been issued. Upon completion of the onsite conference a Site Preparation inspection with an associated pass of the inspection will be required. After the site preparation inspection has passed, additional work can commence;
 - d) The construction project is the primary residence of the person with the HOC.

8-17-02.8 Training Instructors

- A. For a training program to be approved, it must be taught by an approved instructor, certified by Boise City. A person may apply for certification by submitting a letter of application, a \$50.00 application fee, and a resume detailing educational history and experience in the area of erosion control. They must be able to demonstrate knowledge of the principles of:
- 1) Erosion;
 - 2) Sediment transport and deposition;
 - 3) Erosion and sediment control technology, implementation, and maintenance; and
 - 4) Local ordinances regulating erosion and sediment control, including this Ordinance.
 - 5) Federal NPDES regulations.
- B. The Director shall determine approval of a request for instructor certification by an analysis of the person's demonstrated competence, experience, education, training, and understanding of the applicable laws, regulations and ordinances.
- C. An instructor's certification shall be valid for three years from the date of issuance.
- D. After each class held by a certified training instructor, the instructor shall notify the Director of all persons who have successfully completed the program, including their names, addresses, telephone numbers, and employers. Certification will be sent by the Director to applicants who have successfully completed the program.
- E. A training program must be pre-approved by the Director 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 BMP's 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 flood plain; and
 - 13) The difference between erosion control and sediment control.
- F. A Boise City Certificate of Training shall be valid for three years from the date of issuance. A

change of employment has no effect on the validity of the certificate. A certificate holder must attend the next available training program after three years has elapsed. If the certificate holder does not attend a training program as directed, the certificate shall expire the day following the designated program.

- G. Certifications from other cities, states, or associations may be accepted upon approval of the Director, when the applicant can demonstrate the prior certification was based on standards similar to those found in this Ordinance.
- H. Lost certificate of trainings will be replaced by the City for a \$10.00 fee.
(Ord-48-14, Amended, 12/16/2014; 6189, Amended, 10/01/2002; 6098, Amended, 11/13/2001)

Section 8-17-03 ADMINISTRATION, INSPECTION AND ENFORCEMENT

8-17-03.1 Waivers and Variances

- A. The Director may waive or modify the requirement for all or part of the erosion control plan or report upon a determination that the plan or requirement is unnecessary due to the size, character or natural conditions of a site.
 - 1. To obtain a waiver or modification, a written request must be submitted to the Director, along with the permit application and the applicable fees, detailing each requirement for which a waiver or modification is sought, the reasons for the request, and the potential impact of the waiver or modification.
 - 2. The Director 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 Director shall be responsible for ensuring that a waiver or modification would not adversely affect the public welfare or the interests of the City, and the general intent of this Ordinance is preserved.
 - 4. A request for waiver or modification, and the decision of the 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 8-17-03.2.
- 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 Director with the applicable fee, and must detail the reason for the request and include documentation, if necessary.
 - 2. If a request for variance is denied, the denial may be appealed in accordance with the requirements of section 8-17-03.2.
 - 3. A variance shall not be considered a right or special privilege.

8-17-03.2 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 a plan waiver, modification, or variance, may request a reconsideration of the order and denial within ten business days of receipt of the decision.
- B. A request for reconsideration shall be made in writing to the Director with specific detail as to the

decision or order in question and the reason the decision or order should be reconsidered.

- C. The Director may take additional evidence and testimony to render a decision to affirm, modify or withdraw the order or decision, or the Director may deny the request for reconsideration.
- D. For reconsideration of decisions on variance or waiver requests, no additional testimony or supporting evidence will be allowed unless it is information not reasonably known by the applicant at the time of the original request for variance or waiver.
- E. A denial of reconsideration, or a decision to affirm or modify the original order or decision, may be appealed to the City Council. The appeal must be in written form and submitted to the City Clerk's office within five days of receipt of the decision to be appealed. The appellant shall have the right to address the City Council at a public hearing to dispute the decision of the Director. The City Council may affirm, modify, or withdraw the decision of the Director, or may remand the issue back to the Director for further proceedings.

8-17-03.3 City of Boise Inspections

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

- A. The City 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 shall be required to undergo and pass a City inspection upon completion of the installation of perimeter erosion and sediment controls, and upon completion of final stabilization. The permit holder or Responsible Person shall be responsible for scheduling these inspections through PDS. Inspections must be requested a minimum of 24 hours prior to the desired time of inspection, excluding Saturdays, Sundays, and holidays. The City shall ensure an inspection is done within 24 hours of a request, excluding Saturdays, Sundays and holidays. Additional inspections may also occur as deemed necessary by PDS.
- 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 and any enforcement action taken.
- E. All projects shall be classified according to the area disturbed and the project location. Each classification of a project has an associated frequency of inspections.

(Ord-48-14, Amended, 12/16/2014)

8-17-03.4 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 an authorized enforcement agent determines a violation is occurring or has occurred, the permit holder or the designated responsible person may be notified by a Verbal Warning, Correction

Notice or Notice of Violation. Notification shall 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; 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. 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 have 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 to respond in writing to multiple violations.
- C. If no reasonable effort at corrective action is made, or if necessitated by emergency, the Director or 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.
- D. A Stop Work Order may be issued at any time if work is being done without a valid, current permit or if an illicit discharge has occurred.
- E. Administrative costs may be assessed to the property owner if any administrative enforcement action is undertaken.
- F. Any repeated or subsequent violation by any individual of this Ordinance may result in the immediate issuance of a Stop Work Order and/or initiation of any enforcement action as provided for by this Ordinance.

(Ord-48-14, Amended, 12/16/2014)

8-17-03.5 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 \$1000.00, imprisonment in the county jail up to six months, or both. Each day on which a violation occurs may constitute a separate criminal offense.

(Ord-48-14, Amended, 12/16/2014)

8-17-03.6 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 Director or an authorized enforcement agent.
- B. Any condition deemed a nuisance by the Director or an authorized enforcement agent may be summarily abated and/or restored by the City 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 City 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's fees for all administrative or civil proceedings for nuisance violations in which the City is the prevailing party, as authorized by state law.

8-17-03.7 Civil Actions for Violations

The Environmental Protection Agency requires, as mandated by the NPDES permit, that the City of Boise adopt and employ a scheme of civil and administrative penalties. Therefore, pursuant to this federal requirements and Idaho Code § 50-302(2), the City of Boise may enforce any provision of this Ordinance through civil penalties. Such penalties shall be in addition to any other remedies provided for by this Ordinance. In any such action, the City 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.
- F. Any person or its agent violating any provision of this Code may have civil penalties assessed against them. The notice of said penalties shall be served upon the violator or service may be effectuated by Certified Mail to the last known business address or residential address of the violator. A new violation may be filed for each day the violation continues. The violation will have a date when the violation shall be paid by, if it is not paid by that date, the City shall pursue collections through court and will ask the court to reimburse for all costs associated with collecting the penalty. Civil penalties may be issued pursuant to the following guidelines:
 - 1) If a violation(s) is observed which may create or has created an off-site discharge of pollutants, the City shall issue a warning to the Responsible Person.
 - 2) Should the violation continue or a subsequent violation(s) is discovered, the City may issue civil penalties.
 - 3) If the RP has not provided day-to-day controls as required by this ordinance which would have reduced the off-site pollutants to the maximum extent practicable (MEP).
 - 4) Civil penalties will not exceed \$200.00 for the first offense and not more than \$1000.00 for each offense thereafter.

(Ord-48-14, Amended, 12/16/2014)

8-17-03.8 Concealment

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

8-17-03.9 Nonexclusivity of 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.

8-17-03.10 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 City.

8-17-03.11 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 City, any agent or employee thereof for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

(6098, Added, 11/13/2001)