

SITE DISTURBANCE ORDINANCE 129

SECTION 1 TITLE

This ordinance shall be known as the SITE DISTURBANCE ORDINANCE of Shoshone County.

SECTION 2 AUTHORITY

This ordinance is authorized under the provisions of Idaho Code Section 67-6518.

SECTION 3 PURPOSE

The purpose of this ordinance is to protect property, surface water, and ground water against significant adverse effects from excavation, filling, clearing, unstable earthworks, soil erosion, sedimentation, and stormwater runoff and to provide reasonable safety and land protections in the development and design of building sites, roads, and other service amenities. By requiring certain surface water management techniques which rely upon natural on-site treatment and recycling of stormwater in applicable areas and the collection and conveyance of untreated stormwater into ground water sources or into surface bodies of water in applicable areas. The underlying purposes to be achieved by these regulations are the protection of ground water quality through control of stormwater prior to infiltration and protection of surface water resources from the effects of contaminants, sedimentation, and erosion.

SECTION 4 DEFINITIONS

Administrator- An official appointed by the Board of Commissioners to administer the provisions of this ordinance.

Best Management Practices (BMP's) – Physical, structural, and / or managerial practices that, when used singularly or in combination, prevent or reduce sedimentation pollution of water and erosion of soils.

Community Stormwater System- A BMP or series of BMP's which serve(s) more than one parcel.

Conveyance- A mechanism for transporting water from one point to another, including pipes, culverts, ditches, channels and grassy swales.

Cut- To excavate into a hillside to create a flat area or to steepen or flatten a bank.

Design Professional, Grading, Drainage, or Stormwater Management- A professional engineer, landscape architect, or geologist, registered for their respective profession by the State of Idaho.

Design Professional, Erosion, and Sedimentation Control- A professional engineer, landscape architect, architect, or geologist, registered for their respective profession by the State of Idaho or a Certified Professional in Erosion and Sediment control (CPESC) as determined by the Soil and Water Conservation Society and the International Erosion Control Association.

Detention- The temporary storage of storm runoff, used to control the peak discharge rates and provide gravity settling of pollutants.

Driveway- For purposes of managing and treating stormwater, a driveway shall be a means of vehicular access from a public or private road to a point within an individual lot, which is less than 200 feet in length.

Easement Drainage- A legal encumbrance placed against a property's title for maintenance access or to reserve other specified privileges for the users and beneficiaries of the drainage facilities contained within the boundaries of the easement.

Erosion- The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Erosion and Sedimentation Control- Those Best Management Practices (BMP's), which are employed to prevent or reduce erosion or sedimentation and are typically necessary when ground disturbance occurs. (see definition for Best Management Practices).

Excavate- Any act by which earth, sand, gravel, rock or other earthen material is cut into, dug, uncovered, displaced, or relocated.

Fill- A solid material which increases the grounds surface elevation or the act of depositing such material by mechanical means.

Flood Control Structure- A man-made feature designed or constructed to reduce damage caused by flood events, including,, but not limited to, a dam, dike, channel, levy, or similar device.

Grading- Any excavation, filling, or movement of earth for the purposes of changing the shape of topography of the land.

Ground Water- Water in a structured zone or stratum beneath the land surface or a surface water body.

Guarantee of Financial Surety- A surety bond, cash deposit, or escrow account, irrevocable letter of credit, or other means acceptable to Shoshone County to guarantee that infrastructure or improvements are completed in compliance with the project's approval plans.

High Risk Soil Types- Soil classifications according to the 2002 USDA/NRCS Soil Survey of the St. Joe Area, Parts of Benewah and Shoshone Counties, ID, which are deemed severe hazard for water erosion. And Moderate risk soils that become High risk once disturbed

High Water Mark- The point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristic.

Impervious Surface- Any hard surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and / or hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof's, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel compacted native surface roads, compacted earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

Large Organic Debris – As defined by Idaho Forest Practice Act.

Low Risk Soil Types- Soil classifications according to the 2002 USDA/NRCS Soil Survey of the St. Joe Area, Parts of Benewah and Shoshone Counties, ID. which are deemed slight hazard for water erosion.

Moderate Risk Soil Types- Soil classifications according to the 2002 USDA/NRCS Soil Survey of the St. Joe Area, Parts of Benewah and Shoshone Counties, ID, which are deemed moderate hazard for water erosion.

Naturally Occurring Draining Swale- Natural drainage conveyances that provide for the discharge of Stormwater to Class 1 or Class 2 streams, but have bed and banks which are vegetatively covered and stable.

Pervious Surface- Any surface area which allows the entry of water into the soil mantle.

Private Road- A means of vehicular access, which does not meet the definition of “driveway” and is not maintained by a public highway agency.

Public Highway Agency- The Idaho Transportation Department, Shoshone County Public Works Department, or other political subdivision of the state with jurisdiction over public highways, public streets, and public rights-of-way.

Public Road- Public highway or street, which has been accepted for maintenance by a Public Highway Agency.

Retention- The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Reviewing Authority- Shoshone County Building Official, Planning Administrator, Public Works Director and Floodplain Administrator.

Scarify- To break up or loosen the ground surface of an area.

Sediment- Fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits and its transported by, suspended in, or deposited by water.

Sedimentation- The deposition of sediment on ground surfaces and in water courses.

Site- The parcel of land in which grading or excavation activity is conducted. A road-of-right shall be considered a separate site from adjacent properties.

Spoil Pile- Soil and / or rock excavated from an area which will not be used for backfill or final grading on-site.

Stabilized Construction Entrance- A stabilized pad of clean, crushed rock located where traffic enters or leaves a construction site onto a public or private road. The pad shall be a minimum of 6 inches thick, with a minimum rock size of 2-3 inches, and a length sufficient to minimize off-site tracking.

Stormwater- The portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, swales or pipes into a defined surface water channel, or a constructed infiltration facility.

Stormwater Control- Those Best Management Practices (BMP's), which are employed to convey, direct, or dissipate stormwater and are typically necessary when impervious area is created or the natural drainage is interrupted (see definition of Best Management Practices).

Stream- A water source of perceptible extent, which confines and conducts continuously or intermittently flowing water. This definition is intended to include streams in natural or man-made channels.

Stream, Class 1- As defined by Idaho Law.

Stream, Class 2- As defined by Idaho Law.

Treatment- Removal of Sediment or other pollutants of stormwater.

Undisturbed Natural Vegetation Buffer- An area where no development activity has occurred or will occur, including, but not limited to, logging, construction of utility trenches, roads, structures, or surface and stormwater facilities. Buffer areas shall be left in their natural state.

SECTION 5 APPLICABILITY

All areas within the unincorporated portions of Shoshone County require a permit application. Performance Standards are to be met by all activities in all soil types except where exempt in 5-B.

- A. **PERMIT REQUIRED:** A site disturbance permit shall be required only for sites when the following activities are undertaken in addition to any permit required by other agencies.
1. Construction of all new temporary or permanent driveways, private roads, or infrastructure that involves the movement of earth.
 2. Conversion of roads from private use to public use.
 3. Excavation for the construction of any structures that involves the movement of earth.
 4. Creation of a new commercial or industrial access or parking lot, and conversion or paving of an existing access or parking lot for commercial or industrial development.
- B. **EXEMPTIONS:** The following activities are exempt from the permit requirements of this Ordinance.
1. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay when approved for operation under applicable Federal, State, and local regulations.
 2. Bona Fide Agricultural uses and practices.
 3. Logging roads under jurisdiction of the Idaho Forest Practice Act.
 4. Opening and Closing of Cemetery graves.
 5. Emergency activities where there exists immediate danger to life or property, substantial for hazards or other public safety hazards as determined by the County or during the period covered by an emergency declaration by the County or State.
 6. Refuse disposal or landfill operation authorized by permit from the appropriate Federal, state, and local agencies.
 7. Construction and/or maintenance of public roads under County Jurisdiction, except the County are required to follow BMP's.

8. Private roads or driveway maintenance where work is limited to the travel way, no cut or fill slopes are created, and no new drainage features are created.
9. Excavation of test holes for soil testing activities, provided that no access road will be created for test hole excavation.
10. Public projects in subject of jurisdiction of State or Federal agencies.
11. Superfund Remediation Sites.

SECTION 6 APPLICATION AND INFORMATION REQUIREMENTS

- A. APPLICATIONS: All applications for a site disturbance permit shall be submitted to the County on a form provided by the County. At a minimum, the following information shall be required:
1. Property owner's name, and applicant's name if different from the owner.
 2. Contractor's name and State Contractor License Number.
 3. Legal description of property including parcel number.
 4. A written description of the work to be done, including an estimate of the number of cubic yards of earth to be moved and the intended purpose.
 5. A site plan including: property boundaries, north arrow, adjacent roads, and location of purposed work, distances to property lines and prominent features of land.
- B. IMPROVEMENT PLANS: The required elements of the site disturbance plans shall be outlined in the County's BMP Management Guidelines, adopted pursuant to this ordinance.
1. Plans prepared by a design professional shall be required in the following circumstances:
 - a. High Risk Soil Types when more than 25% of the disturbed area lies on slopes greater than 15%.
 2. The Reviewing Authorities may waive the submission of plans for minor improvements if the standards of this Ordinance can be met by existing site conditions.
- C. INTERAGENCY COORDINATION: The Reviewing Authority may request comment from affected agencies where appropriate. Where coordinated permits are necessary, signoffs from permitting agencies or copies of other permits may be required. Permit authorities may include, but are not limited to:
1. Public Highway Agencies for work within public right-of-ways, including approach permits.
 2. Army Corps of Engineers.

3. Idaho Department of Water Resources for work within stream channels.

SECTION 7 STANDARDS

A. GRADING

1. Low Risk Soil Types - The slope of the cut and fill surfaces shall be no steeper than is safe for the intended use.
2. Moderate Risk Soil Types – The slope of the cut and fill surfaces shall be not steeper than is safe for the intended use.
3. High Risk Soil Types – The slope of the cut and fill surfaces shall be not steeper than is safe for the intended use. High Risk Soil Types on slopes greater than 15% require plans designed by a design professional and monitored by the design professional during implementation.

B. EROSION AND SEDIMENTATION CONTROL

1. Erosion and sedimentation control plans for all sites must be sufficient to prevent sediment from leaving the site.
2. Stabilized construction entrances and driveways shall be required for all construction sites to minimize sediment tracking onto roadways.
3. The erosion and sedimentation control plans must be installed or otherwise in effect, as indicated in the approved plan, prior to any site disturbance.
4. All surfaces where bare soil is exposed during clearing and grading operations, including spoil piles, shall be covered or otherwise protected from erosion as needed.
5. The property owner, contractor, and design professional shall be responsible for the design and construction of revised temporary erosion and sedimentation control if the application of the approved plan fails. The applicant shall immediately notify the County Reviewing Authority of alterations to plans.
6. All of the disturbed area shall be revegetated to the greatest extent possible and as soon as possible. Roadbed surfaces are to be constructed to prevent surface erosion.

C. STORMWATER DETENTION AND CONVEYANCE

1. Stormwater conveyance mechanisms must be sized to convey runoff from a 50-year storm event without causing flooding or other damage to public or private property, the stormwater management system, or other improvements.
2. Culvert size within public right-of-way shall be determined by the public highway agency with jurisdiction. All other culvert sizing shall be done by an appropriate design professional and shall be subject to review by the Reviewing Authority.
3. Stormwater systems shall provide for sufficient storage volume and detention time to result in no increase in the peak rate of runoff from the site for a 25-year storm. Runoff from impervious and pervious surfaces shall be considered in meeting this requirement.

D. STORMWATER MANAGEMENT

Management of stormwater runoff from all impervious surfaces shall be required prior to discharge of the stormwater overland or to surface waters.

1. Subdivisions. Stormwater management plans will be developed for subdivisions utilizing calculations that include that runoff from the future developed portions of each lot. Stormwater shall be managed by a combination of stormwater treatment and erosion control BMP's.
2. Commercial or Industrial Development. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMP's.
3. Development of public and private roads. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMP's.
4. Residential Development on Individual Lots.
 - a. For all lots of record, as defined by the Shoshone County Zoning Ordinance, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMP's.
 - b. For replacement, additions or alterations to existing site improvements where no stormwater system has previously been required, stormwater shall be managed to produce no net increase in the stormwater export from the sites previously existing conditions. For additions or alterations to existing improvements on a site with a previously approved and implemented stormwater system, the stormwater treatment level shall be based on the total impervious area on the site as outlined in subsection a above.

The development of the BMP's list and required range of effectiveness is not intended to limit the use of new or innovative control procedures that may be developed through the creativity of the owners or design professional preparing the stormwater management plan. New approaches and procedures will be considered and approved with the submittal of the appropriate support information that confirms the effectiveness of the proposed new treatment method, its use related to site constraints, and the maintenance burden it will produce if adopted and utilized.

SECTION 8 DISTURBANCE RESTRICTIONS

- A. STREAM PROTECTION ZONES: During and after construction operations, streambeds and streamside vegetation shall be protected to leave them in the most natural condition possible to maintain water quality and aquatic habitat.
 1. PROTECTION ZONE DIMENSIONS
 - a. Class 1 Stream Protection Zone- The area encompassed by a slope distance of 75 feet on each side of the high water marks.
 - b. Class 2 Stream Protection Zone- The area encompassed by a minimum slope distance of 30 feet on each side of the high water marks of a Class 2 stream.
 - c. Naturally Occurring Drainage Swale Protection Zone- The area encompassed by a minimum slope distance of 5 feet on each side of the top of a naturally occurring

drainage swale. In no case shall this protection zone have a total width greater than 30 feet.

- d. For roads legally created prior to the effective date of this Ordinance, the width of any protection zone may be reduced to be no greater than 40% of the dimension of the lot perpendicular to the stream or water body.

2. PROTECTION ZONE REGULATIONS

- a. No mechanical ground disturbance shall be permitted within the protection zone except at identified and permitted crossings by the appropriate Agencies. The extent of such disturbance shall be clearly indicated in the approval plans.
- b. Large organic debris (LOD), shading, wildlife cover, and water filtering effects of vegetation shall be maintained along streams as outlined in the Idaho Forest Practices Act.

B. FLOOD ZONES: Grading activity, which may result in damage to a flood control structure, shall not be permitted by this Ordinance. All work within floodways and other “areas of special flood hazard” as identified on the FEMA Flood Insurance Maps shall be in conformance with the Shoshone County Flood Damage Prevention Ordinance, and approved by the Shoshone County Floodplain Administrator.

SECTION 9 GUARANTEE OF INSTALLATION

No final plat of a Major Subdivision as defined in County Code Title 10 shall be recorded until the stormwater management facilities are in place and functioning as designed or until a guarantee of financial surety is provided to and accepted by the County. No Certificate of Occupancy will be issued until the stormwater management system has been installed and is functioning as designed. If, in the judgment of the Reviewing Authorities, project occupancy can be achieved without harm to the environment or potential occupants, occupancy may proceed upon receipt of an acceptable guarantee of financial surety to complete installation when weather conditions or other variables allow. In no case shall such guarantee be allowed if the incomplete improvements would result in increased erosion, sedimentation, or other damage to the development, public improvements, subsurface or surface waters, or the proposed stormwater management system.

At any time, the County is authorized to stop work on the installation of subdivision improvements, to embargo further issuance of building permits in a development, to stop work on any individual building or development of any individual building site, or to otherwise take steps necessary to protect the waters of the County from damage as a result of development.

SECTION 10 ADMINISTRATION OF ORDINANCE

- A. GENERAL: The Ordinance shall be administered in a manner consistent with other Ordinances of Shoshone County by an Administrator as approved by the Board of County Commissioners. Shoshone County may, by resolution, adopt design standards, plan criteria, best management practices, administrative procedures, fee schedules, etc. intended to implement the requirements and standards set forth in this Ordinance. Changes in the supporting documents may be accomplished by subsequently adopted resolution.
- B. DURATION OF PERMIT: Permits shall expire if the work authorized by the permit is not started within 1 year of issuance of the permit, or if work is suspended or abandoned at any time after the work has started for a period of 180 days. The Reviewing Authorities may grant a one-time extension for an additional 180 days on written request by the permittee showing that circumstances beyond the control

of the permittee have prevented work authorized by the permit. The Reviewing Authorities may set specific time limits to the permit for project initiation and completion for environmental reasons or for coordination with other permitted site work.

- C. APPEALS: The Shoshone County Planning and Zoning Commission shall hear all appeals at Public Hearing.

Any person aggrieved may make appeals concerning interpretation of administration of this Ordinance. Such appeals shall be filed within 15 days of the action being appealed. A Notice of Appeal specifying the grounds of the appeal shall be filed with the Administrator. The Administrator shall transmit to the Planning and Zoning Commission all papers constituting the record upon which the action appealed was taken. The Administrator shall schedule the item for the next Planning and Zoning hearing to be commenced within thirty days of filing the Notice of Appeal and shall give legal public notice, as well as due notice to the parties in interest. The Planning and Zoning Commission shall decide the matter within thirty days of completion of the Appeal hearing.

The decision of the Planning and Zoning Commission may be appealed to the Board of County Commissioners, provided that a Notice of Appeal is submitted in writing to the Board of County Commissioners within 15 days of the Planning and Zoning Commission decision. The Board of County Commissioners shall also decide the matter within sixty days.

- D. PERMIT FEE: Application for site disturbance activities requiring a permit in accordance with (new section 0-0-0) of this chapter and shall be submitted to the administrator with a fee as set forth on the fee schedule as adopted from time to time by resolution of the Board of County Commissioners.

SECTION 11 INSPECTIONS

- A. GENERAL: All development sites governed by these regulations shall be subject to inspections by the County. An approved set of plans and permit must be available for review on-site whenever work is in progress. It shall be the permittee's responsibility to keep the County notified of the progress of the project.
- B. HIGH RISK SOIL TYPES: At a minimum, two (2) inspections shall be required for high-risk sites. 1) After erosion and sedimentation controls have been installed, prior to ground disturbance, and 2) after the project has been completed, including revegetation. For sites which are active during the winter, two (2) additional inspections may be required: 3) after the site has been prepared for the winter and 4) sometime in the spring to ensure that the erosion and sedimentation control measures are adequate and maintained. The permittee's design professional if required shall perform the inspections and submit inspection reports to the County.

SECTION 12 MAINTENANCE

Maintenance requirements shall be the responsibility of the land owner.

In the event that appropriate maintenance of any stormwater system is not conducted, the County shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outline in Section 13, below.

SECTION 13 PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES

The following actions shall be considered violations of this Ordinance.

- A. Failure to obtain a permit prior to the start of activity;
- B. Failure to call for inspections as required by this Ordinance;
- C. Once activity has begun, failure to complete the activity and install the necessary erosion and sedimentation control, stormwater management, and slope stabilization measures, in a timely manner.
- D. Failure to maintain temporary and permanent erosion and sedimentation control measures, the stormwater management system, or slope stabilization measures;
- E. Conduct work on site which exceeds the scope of work outlined in the approved plans;
- F. Damage or otherwise impede the function of stormwater system;
- G. Export sediment from a site in manner not authorized by this Ordinance.
- H. Continue work at a site after a Stop Work order has been placed;
- I. Discharge stormwater in manner not authorized by this Ordinance;

If any of the above violations have occurred, the Reviewing Authorities may revoke the permit or order the work stopped by notice, in writing, served on any persons engaged in doing or causing such work to be done. Such person shall stop all site work until authorized by the Reviewing Authorities to proceed. The Reviewing Authorities may also withhold further issuance of permits. Stop Work orders may be appealed in the same manner as other appeals.

Violations of this Ordinance may be considered a criminal misdemeanor and shall be punishable by a maximum fine of \$300 or six (6) months in jail, or both. Each day of violations shall constitute a separate offense. The County may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this Ordinance.

SECTION 14 SEVERABILITY

Should any section, clause, or provisions of this Ordinance be declared by a court of competent jurisdiction to be invalid, it shall not affect the validity of the remaining portions of this Ordinance.

SECTION 15 CONFLICTING ORDINANCE PROVISIONS

The provisions of this Ordinance shall supersede the provisions of Shoshone County Code Title 10 Chapter 4 “Mountain and Hillside Development”.

The provisions of the Shoshone County Building Code Ordinance and the Uniform/International Building Code shall remain in effect, under the administration of the Building Official, to the extent that they regulate the

construction of buildings or other structures. If a conflict occurs between these Ordinances, this Ordinance shall take precedence.

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