

NOTICE OF ORDINANCE ADOPTION

The Board of Commissioners of Kootenai County, Idaho, hereby gives notice of the adoption of Kootenai County Ordinance No. 445. The full text of the ordinance addresses the following subject:

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO SITE DISTURBANCES AND STORMWATER CONTROL; ESTABLISHING REQUIREMENTS FOR GRADING OF LAND, EROSION AND SEDIMENTATION CONTROL, AND STORMWATER MANAGEMENT; REPEALING THE REQUIREMENT FOR PUBLIC HIGHWAY AGENCIES TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE; PROVIDING FOR ELIMINATION OF HAZARDS; PROVIDING FOR ADMINISTRATION, VARIANCES, AND APPEALS; PROVIDING FOR MAINTENANCE AND INSPECTIONS; PROVIDING THAT VIOLATIONS SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE PURSUANT TO SECTION 1-4-1, KOOTENAI COUNTY CODE; AND MAKING MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR NON-WAIVER OF ACTIONS REGARDING VIOLATIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; AND PROVIDING AN EFFECTIVE DATE.

The full text of Ordinance No. 445 is available at the Kootenai County Building and Planning Department, 451 Government Way, Coeur d'Alene, Idaho 83814, weekdays, from 7 a.m. to 4 p.m.



ATTEST:

DANIEL J. ENGLISH, CLERK

BY: *Dawn Forest*  
Deputy Clerk

KOOTENAI COUNTY  
BOARD OF COMMISSIONERS

*Elmer R. Currie*  
Elmer R. Currie, Chairman

Publication Date: August 18, 2010

**KOOTENAI COUNTY  
SITE DISTURBANCE ORDINANCE NO. 445  
CASE NO. ORA10-0003**

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(New Section)	Non-Waiver of Actions Under Prior Ordinances
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**KOOTENAI COUNTY  
SITE DISTURBANCE ORDINANCE NO. 445  
CASE NO. ORA10-0003**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO SITE DISTURBANCES AND STORMWATER CONTROL; ESTABLISHING REQUIREMENTS FOR GRADING OF LAND, EROSION AND SEDIMENTATION CONTROL, AND STORMWATER MANAGEMENT; REPEALING THE REQUIREMENT FOR PUBLIC HIGHWAY AGENCIES TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE; PROVIDING FOR ELIMINATION OF HAZARDS; PROVIDING FOR ADMINISTRATION, VARIANCES, AND APPEALS; PROVIDING FOR MAINTENANCE AND INSPECTIONS; PROVIDING THAT VIOLATIONS SHALL CONSTITUTE A MISDEMEANOR PUNISHABLE PURSUANT TO SECTION 1-4-1, KOOTENAI COUNTY CODE; AND MAKING MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR NON-WAIVER OF ACTIONS REGARDING VIOLATIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, IDAHO:

**SECTION 1.** That Title 11, Chapter 2, Kootenai County Code, shall be, and the same is hereby repealed.

**SECTION 2.** That Title 11, Kootenai County Code, be, and the same is hereby amended by the addition thereto of a **NEW CHAPTER**, to be known and designated as Title 11, Chapter 2, Kootenai County Code, and to read as follows:

**11-2-1: TITLE:** This chapter shall be known as the Kootenai County Site Disturbance Ordinance.

**11-2-2: AUTHORITY:** In addition to the general authorities set out in section 1-1-2 of this code, the provisions of this chapter are authorized under Title 67, Chapter 65, Idaho Code, as amended or subsequently codified.

**11-2-3: PURPOSE:** The purpose of this chapter shall be 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 maximum safety in the development and design of building sites, roads, and other service amenities.

**11-2-4: DEFINITIONS:**

**ADMINISTRATOR:** The Director is hereby designated as being responsible for the administration of the provisions of this chapter and as having authority to hire a design professional to provide technical advice on matters subject to the provisions of this chapter.

**BEST MANAGEMENT PRACTICES (BMPs):** Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water and erosion of soils.

**BUFFER STRIP:** A vegetated area that slows stormwater runoff and provides filtration. The effectiveness of buffer strips is determined by several factors that include soil type, slope, width and vegetation type. Typically stormwater must enter the buffer strip as sheet flow for the buffer to provide any significant treatment.

**CLEARING:** The destruction and removal of vegetation by manual, mechanical, or chemical methods.

**COMMUNITY STORMWATER SYSTEM:** A BMP or series of BMPs which serve(s) more than one parcel.

**CONVEYANCE:** A mechanism for transporting water from one point to another, including pipes, ditches, and channels.

**CUT:** To excavate into a hillside to create a flat area or to steepen or flatten a bank.

**DEPARTMENT:** The Kootenai County Building and Planning Department.

**DESIGN PROFESSIONAL:** A professional engineer, landscape 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.

**DIRECTOR:** The Director of the Kootenai County Building and Planning Department, or his or her designee.

**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 150 feet in length.

**EASEMENT, DRAINAGE:** A legal encumbrance placed against a property's 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 BMPs which are employed to prevent or reduce erosion or sedimentation and are typically necessary when ground disturbance occurs.

**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 ground 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 or topography of the land.

**GROUNDWATER:** Water in a saturated 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 or required by the County to guarantee that infrastructure or improvements are completed in compliance with the project's approved plans.

**HIGH WATER MARK:** The line which water impresses on the soil by covering it for sufficient periods to deprive it of vegetation.

**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 a 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, roofs, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel and compacted native surface roads, compacted earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

**NATURALLY OCCURRING DRAINAGE 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.

**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, a Highway District, 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.

**RATHDRUM PRAIRIE AQUIFER:** A geologic stratum containing ground water in northern Kootenai County, further delineated on the Water Resources map in the Kootenai County Comprehensive Plan.

**RETENTION:** The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

**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 is 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 on which grading or excavation activity is conducted. A road right-of-way shall be considered a separate site from adjacent properties.

**SPOIL PILE:** Soil and/or rock excavated from an area which may 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 paved 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:** That portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel, or a constructed infiltration facility.

**STORMWATER CONTROL:** Those BMPs which are employed to convey, direct, treat, or dissipate stormwater and are typically necessary when impervious area is created or the natural drainage is interrupted.

**STREAM:** A water course 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. This definition is not meant to include dead-end streams which do not support fish or other beneficial uses. A 'dead-end' stream is one which infiltrates into the ground prior to reaching a larger body of water.

**STREAM, CLASS 1:** A stream which exhibits a definite bed and banks (a clay, silt, sand, gravel, cobble, boulder, or bedrock stream bottom which results from the scouring action of water flow) and is used for domestic water supply or by fish for spawning, rearing, or migration. Such waters will be considered to be Class 1 upstream from the point of domestic diversion for a minimum distance of 1,320 feet. The Coeur d'Alene River, Spokane River, and all recognized Kootenai County lakes are excluded from this definition for purposes of this chapter.

**STREAM, CLASS 2:** A stream which exhibits a definite bed and banks (a clay, silt, sand, gravel, cobble, boulder, or bedrock stream bottom which results from the scouring action of water flow) and is usually found in headwater areas or minor drainages and is not used by fish. Their principal value lies in their influence on water quality or quantity downstream in Class 1 streams.

**SURFACE WATER:** For purposes of this chapter, surface water shall include all lakes, rivers, streams, wetlands, and similar features and any feature which acts as a conveyance of water to a surface water feature. Conveyance features may include natural or man-made ditches. Ponds, springs, or similar features that are entirely contained within the property shall not be considered surface water features.

**TREATMENT:** Removal of sediment or other pollutants from 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.

#### **11-2-5: APPLICABILITY:**

A. Permit Required. Except as exempted under subsection (B) of this section, a site disturbance permit shall be required for the following activities:

1. Construction of all new driveways, private or public roads, or infrastructure authorized through the subdivision or conditional use permit process;
2. Conversion of roads from one use to another (such as a logging road to a private road, private road to a public road, etc.) regardless of the level of improvement required on the road;
3. Excavation for the construction of structures;
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;
5. All other excavation and grading activity.

B. Exemptions. The following activities are exempt from the permit requirements of this chapter:

1. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay when approved for operation under applicable State and local regulations;
2. Agricultural practices in common local usage;

3. Activities governed by and subject to the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code (IFPA);
4. Cemetery graves;
5. Emergency situations involving immediate danger to life or property, substantial fire hazards, or other public safety hazards as subsequently determined by the County, or during the period covered by an emergency declaration by the County;
6. Refuse disposal or landfill operation authorized by permit from the appropriate state and local agencies. Landfill construction shall not be exempt from this chapter;
7. In any 12-month period, excavation or placement of fill less than 50 cubic yards in volume, which does not obstruct a stream, drainage course, or surface waters;
8. Private road or driveway maintenance where work is limited to the travelway, no cut or fill slopes are created, and no drainage features are created or modified;
9. Excavation of test holes for soil testing activities, provided that no access road will be created for test hole excavation, and the total excavation is less than 50 cubic yards;
10. Grading, excavating and placement of fill on a site that has less than 10% slope, and is more than 500 feet from surface water as defined by this chapter, and that results in disturbance of less than 1/3 of the parcel, or sites over the Rathdrum Prairie Aquifer which are greater than 500 feet from surface water. This exemption shall not apply to commercial or industrial developments or for subdivision infrastructure development;
11. Grading, excavating, or placement of fill which is subject to the regulations and permitting process of the U.S. Army Corps of Engineers, Idaho Department of Lands, and/or Idaho Department of Water Resources. Grading activities that are related to such projects, but which are not subject to the aforementioned agencies' regulations, are not exempt.

Excavation and grading activities which are exempted from the permit requirement under Items 7 through 11 shall employ reasonable and knowledgeable BMPs to prevent sediment from leaving the site.

C. Utility Installers. Site disturbing activities conducted by Utility Installers shall be regulated as follows:

1. For major installation projects where utility service is regional in nature intending to serve more than one subdivision or intending to upgrade existing service to multiple subdivisions, or commercial or industrial projects, utility installers shall comply with all requirements of this chapter.

2. All other work conducted by utility installers shall use knowledgeable and reasonable BMPs to prevent sediment from leaving the site.

#### **11-2-6: APPLICATION AND INFORMATION REQUIREMENTS:**

A. Applications. All applications for a site disturbance permit shall be submitted to the Department on a form provided by the Department. At a minimum, the following information shall be required:

1. Property owner's name and applicant's name if different from the owner;
2. Legal description of property including parcel number;
3. A written description of the work to be done, including an estimate of the amount of earth to be moved;
4. A site plan, drawn to scale, including property boundaries, north arrow, adjacent roads, location of proposed work, and distances to property lines or prominent features of the land.

Upon receipt of a completed application, the Department will perform a site inspection to determine the risk categories as outlined in Appendix A and B of this chapter. Using the outcome of risk assessment, and the nature, location, and time of year of the project, the administrator shall determine whether the project is high, moderate or low risk.

B. Improvement Plans. The required elements of site disturbance plans shall be outlined in the Department's Plan Criteria manual, adopted pursuant to this chapter.

1. Plans prepared by a design professional shall be required in the following circumstances:
  - a. Site disturbing activities governed by this chapter on high risk sites.
  - b. All commercial and industrial development.
  - c. When required under subsection 11-2-5(C) of this chapter.
  - d. Subdivision infrastructure development.
2. Plans for moderate risk sites may be prepared by a design professional, contractor, or property owner.
3. The Administrator may waive the submission of plans for minor improvements if the standards of this chapter can be met by existing site conditions.

C. Interagency Coordination. The Administrator 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 rights-of-way, including approach permits;
2. U.S. Army Corps of Engineers;
3. Idaho Department of Lands for encroachments into navigable waters, logging activity under the IFPA, and surface mining activity;
4. U.S. Environmental Protection Agency for site disturbing activity where an NPDES permit is required;
5. Coeur d'Alene Tribe for site disturbing activity within the boundaries of the Coeur d'Alene Indian reservation;
6. Idaho Department of Water Resources for work within stream channels.

#### **11-2-7: STANDARDS:**

A. Grading.

1. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate to the Administrator substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, revegetation, and overall water quality impacts. Subsurface drainage shall be provided as necessary for stability. All engineering reports are subject to review by the Administrator.
2. Fill slopes shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate to the Administrator substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, revegetation, and overall water quality impacts. Fill slopes shall not be constructed on natural slopes of 40% (2.5 horizontal to 1 vertical) or steeper, without special treatment or design. In addition, the toe of fill slopes shall not be closer to the top of existing or planned downhill cut slopes than the height of that cut (e.g. if an 8-foot cut is planned, the toe of the uphill fill slope shall not be closer than 8 feet to the top of that cut), unless the design professional has demonstrated that comparable stability can be achieved with lesser setbacks.
3. Prior to placement of fill, the ground surface shall be prepared to receive fill by removing vegetation, topsoil, forest duff, and any other unsuitable material. The area to receive fill shall be scarified to provide a bond with the new fill. Fill shall not be placed until the

area is prepared by constructing a level or slightly insloped toe bench into competent material at the base of the new fill. The Administrator may waive the benching requirement for minor fills which are not intended to support a road, driveway, or structure. In high risk areas, the position, width, and configuration of the bench shall be determined by a design professional. Fill slopes and the transition zone into natural terrain shall be configured to a generally smooth, planar configuration so that runoff traverses the area as sheet flow and is not concentrated. Fill material shall be composed of mineral soil that is free of organic material. Roadway fills shall be placed in lifts and compacted to a minimum of 95 percent (95%) of the maximum density as determined by the AASHTO T-99 or ASTM D-698 compaction procedure, or as specified in the design professional's report.

4. Except where roads or driveways cross property lines, the tops and toes of cut and fill slopes shall be set back from property boundaries one half of the height of the slope with a minimum of five (5) feet and a maximum of twenty (20) feet, unless the design professional has demonstrated to the Administrator that smaller setbacks provide a sufficient measure of safety and stability for activities which may occur on adjacent property.
5. Terracing shall be required on all cut or fill slopes which exceed 50 feet in height. Spacing, width, and drainage requirements of the terrace(s) shall be determined by the design professional.

#### B. Erosion and Sedimentation Control.

1. Erosion and sedimentation control BMPs 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. Parking of vehicles shall be restricted to paved or stabilized areas.
3. The erosion and sedimentation control BMPs must be installed or otherwise in effect, and the boundary of the area to be disturbed must be clearly marked, 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.
5. The property owner, contractor, and design professional shall be responsible for the design and construction of revised temporary erosion and sedimentation control if application of the approved plan fails. The Applicant shall immediately notify the Administrator of alterations to plans.
6. All cut and fill slopes shall be revegetated or otherwise protected from erosion to the greatest extent possible.

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 rights-of-way shall be determined by the public highway agency with jurisdiction. All other culvert sizing shall be done by an appropriate design professional.
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.
4. Where treatment of stormwater runoff is required prior to infiltration over the Rathdrum Prairie Aquifer, the runoff shall be conveyed to treatment areas with limited infiltration prior to treatment.

D. Stormwater Treatment. Treatment of the first one-half inch (1/2") of stormwater runoff from all impervious surfaces shall be required prior to discharge of the stormwater overland or to ground or surface waters.

1. Subdivisions. Stormwater management plans will be developed for subdivisions utilizing calculations that include the runoff from the future developed portions of each lot. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce an anticipated treatment efficiency of:

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total Phosphorus (P)	70%
Total Nitrogen (N)	70%
Metals	70%
Suspended Solids	90%

2. Commercial or Industrial Development. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce an anticipated treatment efficiency of:

a. Areas over the Rathdrum Prairie Aquifer:

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total P	85%
Total N, Metals	80%
Suspended Solids	95%
Dissolved Solids	50%
Organic Chemicals	60%
Bacteria	99%

- b. Areas not over the Rathdrum Prairie Aquifer: Same anticipated treatment efficiency as listed in paragraph (D)(1) of this section.
- 3. Development of public and private roads. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the same anticipated treatment efficiency as listed in paragraph (D)(1) of this section above.
- 4. Residential Development on Individual Lots.
  - a. For non-waterfront legal lots of record, as defined by the Kootenai County Zoning Ordinance, Title 9 of this code, which were created prior to January 1, 1997, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the following anticipated treatment efficiencies based on the ratio of total impervious area to total lot size:

<b>Impervious Area</b>	<b>Pollutant</b>	<b>Treatment Efficiency</b>
0-4%	Stormwater treatment not required	
4-8%	Total P, Total N, and Metals	40%
	Suspended Solids	90%
9-15%	Total P, Total N, and Metals	60%
	Suspended Solids	90%
16-35%	Total P, Total N, and Metals	80%
	Suspended Solids	90%

Impervious area ratios greater than 35% shall be prohibited except on residential lots which are 16,000 square feet or less. Such lots shall meet the same anticipated treatment efficiency standard for an impervious area of 16 to 35%.

- b. Lots created after January 1, 1997 shall comply with the anticipated treatment efficiency standards listed in paragraph (D)(1) of this section, or in the case of waterfront lots, subparagraph (D)(4)(c) of this section.
- c. Waterfront lots. For residential development on lots with frontage on a recognized lake or the Coeur d'Alene or Spokane Rivers, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the following anticipated treatment efficiency:

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total P, Total N, and Metals	80%
Suspended Solids	90%

- d. For replacement, or additions or alterations to existing site improvements where no stormwater system has previously been required, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce no net increase in the pollutant export from the site's 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 subparagraph (D)(4)(a) of this section.

On-site post-construction testing of BMP treatment efficiency will not be required by the County. The stormwater management plans must show that the proposed BMPs are anticipated to meet or exceed the treatment efficiencies listed above. Expected treatment efficiencies shall be included in the County's Manual of Best Management Practices or the Plan Criteria manual. The development of the BMP list and required range of removal effectiveness is not intended to limit the use of new or innovative treatment procedures that may be developed through the creativity of the design professional preparing the stormwater management plan. New approaches and procedures will be considered and approved with the submittal of the appropriate support data 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.

- E. Groundwater and Springs. Springs and other groundwater sources that are encountered during grading or excavation activity shall be returned to subsurface flow where possible or conveyed through the site by an appropriate means of conveyance that shall be non-erosive, avoids sediment transport, and dissipates energy, all to be conducted in accordance with the Best Management Practices. For high risk sites, the owner should contact the design professional to ensure that the groundwater will not interfere with the implementation or function of the planned stormwater or erosion control improvements.

#### **11-2-8: DISTURBANCE RESTRICTIONS:**

- A. Stream Protection Zones. During and after construction operations, stream beds 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 lots legally created prior to January 1, 1997, 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 Restrictions

- a. No mechanical ground disturbance shall be permitted within the protection zone except at identified and permitted crossings. When disturbance is necessary, across or inside a Protection Zone, it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. The extent of such disturbance shall be clearly indicated in the approved plans.
- b. When streams must be crossed, adequate structures to carry stream flow shall be installed. Crossings and their approaches shall be at right angles to the channel or otherwise configured to minimize the disturbance within the Protection Zone. (Construction of hydraulic structures in stream channels is regulated by the Stream Protection Act, Title 42, Chapter 38, Idaho Code.) All temporary crossings shall be removed immediately after use.
- c. 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.
- d. Existing site improvements which lie within a stream protection zone may be replaced, altered, or enlarged, provided no addition or alteration encroaches farther into the protection zone than the existing improvements, site disturbing activity is minimized to the extent possible, and all other requirements of this chapter are met.
- e. For site disturbing activity not exempted under paragraph 11-2-5(B)(11) of this chapter, the administrator may allow work within stream protection zones during periods of low flow, in accordance with all other requirements of this chapter. Prior to authorizing such work, the administrator shall consult with the Idaho Department of Fish and Game, or other agencies as appropriate, to determine whether the timing or nature of the project will have an adverse impact on the environment.

B. Waterfront Lots. For lots with frontage on a recognized lake or the Coeur d'Alene or Spokane Rivers, an undisturbed natural vegetation buffer shall be retained at the waterfront. A stairway or walkway (which does not exceed 4 feet in width), stairway landings (which do not exceed 6 feet in width or length), or a tram shall be allowed to encroach within the buffer. The buffer shall be a minimum of 25 feet in slope distance from the high water mark of the water body. For purposes of this chapter, high water marks shall be considered to be the following elevations:

Coeur d'Alene Lake	2128.0 (North American Vertical Datum of 1988)
Fernan Lake	2131.37
Hauser Lake	2187.0
Hayden Lake	2239.0
Pend Oreille Lake	2062.5
Spirit Lake	2442.0
Twin Lakes	2310.46

The high water marks for all other water bodies shall be determined by on-site inspection of evidence of historical water levels.

**11-2-9: HAZARDS:** Whenever the Administrator determines that an existing excavation, embankment, fill, or roadway on private property has become a hazard to life and limb; endangers other property; adversely affects the safety, use, or stability of a public or private access, drainage channel, or adjacent or contiguous properties, the Administrator may require the property owner(s) to eliminate the hazard. The Administrator shall give notice in writing to the owner or other person(s) or agents(s) in control of the property. Within the period specified in the notice, the owner(s) or their agent(s) shall have the hazard corrected.

**11-2-10: ADMINISTRATION:**

- A. General. The Administrator shall administer the provisions of this chapter in a manner consistent with other provisions of this code. The Board of County Commissioners 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 chapter. 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 180 days 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 Administrator may grant 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 Administrator 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. Guarantee of Installation.
  - 1. Subdivisions. Prior to initiating work on subdivision infrastructure, the developer shall provide an acceptable guarantee of financial surety to ensure that erosion control, site stabilization and stormwater management improvements will be completed. The design professional shall provide an estimate of the cost to implement these improvements based on the current local construction costs. Prior to release of the financial guarantee, the developer's design professional shall submit a letter to the Department, approving the construction and certifying its completion.

If the required improvements have not been completed by the specified date, the Department may contract to have the work completed with the money from the financial guarantee. The Department may also take additional enforcement measures as provided by law.

2. For commercial and industrial development, or development on high risk sites, the owner shall be required to provide an acceptable guarantee of financial surety to the Department prior to issuance of the site disturbance permit. The design professional shall provide an estimate of the cost to implement the approved plan. Estimated costs shall be based upon the current local construction costs. The financial guarantee shall be 150 percent of the estimated cost to complete the plan. Prior to release of the financial guarantee, the applicant's design professional shall submit a letter to the Department, approving the construction and certifying its completion.

If the required improvements have not been completed by the specified date, the Department may contract to have the work completed with the money from the financial guarantee. The Department may also take additional enforcement measures as provided by law.

3. For development on moderate risk sites, the owner may be required to provide an acceptable guarantee of financial surety to the Department prior to issuance of the site disturbance permit. If required, the owner shall provide an estimate of the cost to implement the approved plan, subject to review and approval of the Administrator. Estimated costs shall be based upon the current local construction costs. The financial guarantee shall be 150 percent of the estimated cost to complete the plan. Prior to release of the financial guarantee, the Department shall conduct an inspection to approve the construction and certify its completion.

If the required improvements have not been completed by the specified date, the Department may contract to have the work completed with the money from the financial guarantee. The Department may also take additional enforcement measures as provided by law.

- D. Variances. Variances from the provisions of this title may be granted as allowed under Idaho Code 67-6516 in specific cases where such variance will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

Requests for a variance from any provision of this chapter shall be decided in accordance with the procedures set forth in section 9-23-3 of this code, including, without limitation, the required findings for the granting of variances.

- E. Appeals. Any person, agency or organization aggrieved by a decision made by the Administrator in the administration or enforcement of this chapter may appeal that decision

by submitting, within twenty-eight (28) days of the decision, a written request for an appeal hearing before a Hearing Examiner, an explanation of the specific grounds for the appeal, and applicable fees.

After receiving a recommendation from the Hearing Examiner, the final decision on the appeal shall be made by the Board. The Board may summarily issue a final decision approving the recommendation from the Hearing Examiner, or may conduct an additional appeal hearing prior to making a final decision.

The Board may adopt, by ordinance or resolution, procedures for the hearing of appeals brought pursuant to the provisions of this chapter.

**11-2-11: INSPECTION:**

A. General. All activities governed by these regulations shall be subject to inspection by the Department. An approved set of plans must be available for review on-site whenever work is in progress. It shall be the permittee's responsibility to keep the Department notified of the progress of the project and call for all required inspections.

B. High Risk Sites. 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 shall be required:

3. After the site has been prepared for the winter (typically in September or October); and
4. Sometime in January or February to ensure that the erosion and sedimentation control measures are adequate and maintained.

The permittee's design professional shall perform the inspections and submit inspection reports to the Administrator.

C. Moderate Risk Sites. For moderate risk sites, the Administrator shall determine what inspections are necessary. The Administrator, or their designee, shall conduct the inspections for moderate risk sites.

D. Other sites where risk has not been determined. For sites where notification is required or other situations where the site risk has not been evaluated, the Administrator shall determine what inspections are necessary, if any.

**11-2-12: MAINTENANCE:** Maintenance requirements and responsibility shall be clearly identified for all projects where BMPs are employed, including BMPs for erosion and sedimentation control and stormwater management. When a stormwater system is designed to service more than one lot, a maintenance agreement between all parties which benefit from the system must be established, including assurance of adequate funding. Easements across private property for maintenance access to community stormwater systems shall also be required where necessary. All maintenance agreements must be approved by the Administrator.

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 outlined in Section 11-2-13 of this chapter.

**11-2-13: PROHIBITED CONDUCT, ENFORCEMENT, AND PENALTIES:** Violations of this chapter shall include, but are not limited to, the following actions:

- A. Failure to obtain a permit prior to the start of grading activity;
- B. Failure to call for inspections as required by this chapter;
- C. Once grading activity has begun, failure to complete the grading 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 a site which exceeds the scope of work outlined in the approved plans;
- F. Damage or otherwise impede the function of a stormwater system;
- G. Export sediment from a site in a manner not authorized by this chapter;
- H. Continue work at a site after a Stop Work order has been placed;
- I. Discharge stormwater in a manner not authorized by this chapter;
- J. Failure to correct a hazard as outlined in section 11-2-9 of this chapter.

If one or more violations have been found to have occurred, the Administrator may revoke the permit, issue a Notice of Site Disturbance Violation 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 Administrator to proceed. The Administrator may also withhold further issuance of permits.

In the event that a Notice of Site Disturbance Violation is issued, the Administrator shall prepare and mail, via certified mail, a Notice of Site Disturbance Violation. The notification shall include:

1. The property owner and the legal description of the parcel.
2. The nature of the violation.
3. The remedial action that must be undertaken to resolve the violation.
4. The length of time allotted to resolve the violation.

The property owner shall have 45 days from the date the Notice was mailed to resolve the violation. If resolution does not occur within those 45 days, the Notice of Site Disturbance Violation shall be filed in the Office of the County Recorder and a copy mailed to the property owner, via certified mail.

All Notices of Site Disturbance Violation, Stop Work Orders, and notices of permit revocation shall advise the owner of the appeal process. All appeals of such notices or orders shall be submitted and heard in accordance with subsection 11-2-10(E) of this chapter. If the Department's action is affirmed, the Board shall specify an exact number of days to gain compliance with this chapter before a Notice of Site Disturbance Violation is recorded. If the Department's action is reversed, the Board may specify actions to be taken by the Administrator to release the violation. The Board may also add or remove conditions of remedial action.

At such time as the violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule and the Administrator shall file in the Office of the County Recorder a release of any previously recorded Notice of Site Disturbance Violation. The release shall contain all of the information contained in the previously recorded Notice of Site Disturbance Violation, as well as the corrective action taken to resolve the violation. A copy of the release shall be mailed to the property owner, via certified mail.

Any violation of this chapter shall be a misdemeanor punishable as provided in section 1-4-1 of this code. The County may also take civil action to compel performance and completion of, or maintenance of, improvements installed pursuant to this chapter. Each day on which a violation occurs shall constitute a separate violation for purposes of both civil and criminal action.

**11-2-14: COORDINATION WITH OTHER ORDINANCES:** The provisions of the Kootenai County Building Code Ordinance, Title 7, Chapter 1 of this code, and all codes adopted by reference therein, shall remain in effect under the administration of the Director to the extent that they regulate the construction of buildings or other structures. If any conflict occurs between this chapter and any provision of Title 7, 9, or 10 of this code, or of chapter 1 of this title, the more restrictive provision shall take precedence.

**11-2-15: APPENDICES:**

**APPENDIX A - EROSION RISK ASSESSMENT**

SLOPE, measured in percent, as an average across the area to be disturbed.

<b>Gradient</b>	<b>Point Value</b>
0 - 10% slope	1
11 - 25% slope	5
> 25% slope	10

SOIL K FACTOR, for water erosion susceptibility, as indicated in the Soil Survey of Kootenai County Area, Idaho, or other supplementary study. The highest K factor within the proposed disturbed soil profile will be used. Soil type from the Soil Survey will be verified on-site by physical description.

<b>K Factor</b>	<b>Point Value</b>
0 - 0.2	1
0.21 - 0.4	3
> 0.4	5

PROXIMITY TO SURFACE WATER or any feature which conveys water to surface water. Surface water includes all lakes, rivers, streams, wetlands, and similar features. Conveyance features may include natural or man-made ditches. Ponds, springs, or similar features that are contained within the property shall not be considered surface water features. Distance is measured along the slope from the closest boundary of the proposed disturbance to the conveyance or surface water feature.

<b>Distance</b>	<b>Point Value</b>
>500	1
201' - 500'	5
0' - 200'	10

AMOUNT OF DISTURBED AREA, expressed as a percentage of the parcel area. Areas to be disturbed during installation of utilities must be included.

<b>Disturbed Portion</b>	<b>Point Value</b>
0 - 33%	1
34 - 66%	5
67 - 100%	10

BUFFER STRIP. If the project has a useable buffer strip, which provides the appropriate level of treatment for the type of project proposed, subtract 10 points.

THE POINTS FOR EACH FACTOR SHALL BE ADDED, THE RISK CATEGORY SHALL BE DETERMINED FROM THE POINT TOTAL AS FOLLOWS:

0 - 9	=	Low risk
10 - 20	=	Moderate or high risk, Administrator makes determination based on experience in the area
> 20	=	High risk

**APPENDIX B - STORMWATER RISK ASSESSMENT**

SLOPE, measured in percent, as an average across the area to be disturbed

<b>Gradient</b>	<b>Point Value</b>
0 - 5%	0
6 - 10%	3
11 - 15%	6
16 - 25%	10
> 25%	15

SOIL PERMEABILITY, measured in inches per hour as indicated in the Soil Survey of Kootenai County Area, Idaho, or other supplementary study. The lowest permeability in the soil horizon shall be used. Soil type from the Soil Survey will be verified on-site by physical description.

<b>Permeability</b>	<b>Point Value</b>
0.5 or greater	0
< 0.5	5

PROXIMITY TO SURFACE WATER or any feature which conveys water to surface water. Surface water includes all lakes, rivers, streams, wetlands, and similar features. Conveyance features may include natural or man-made ditches. Ponds, springs, or similar features that are contained within the property shall not be considered surface water features. Distance is measured along the slope from the closest boundary of the proposed disturbance to the conveyance or surface water feature.

<b>Distance</b>	<b>Point Value</b>
>500'	0
201' - 500'	5
0' - 200'	10

IMPERVIOUS AREA RATIO, expressed as a percentage of the parcel area covered with impervious surfaces.

<b>Coverage</b>	<b>Point Value</b>
0 - 19%	0
20 - 40%	5
> 40%	10

TOTAL IMPERVIOUS AREA, expressed in square feet.

<b>Coverage</b>	<b>Point Value</b>
20,000 or greater	5
<20,000 square feet	0

DRAINAGE CROSSING PROPOSED. If the project requires crossing a conveyance channel or drainage, add 5 points.

BUFFER STRIP. If the project has a useable buffer strip, which provides the appropriate level of treatment for the type of project proposed, subtract 10 points.

THE POINTS FOR EACH FACTOR SHALL BE ADDED, THE RISK CATEGORY SHALL BE DETERMINED FROM THE POINT TOTAL AS FOLLOWS:

15 Points or greater                      High risk  
0 – 14 Points                              Low to moderate risk

**SECTION 3.** Should any section, clause, or provision 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.

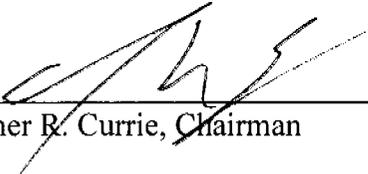
**SECTION 4.** The provisions of this Ordinance shall repeal all previously enacted ordinances pertaining to site disturbances and stormwater control, whether codified or uncodified, including but not limited to Ordinance Nos. 251, 283, and 374.

**SECTION 5.** Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

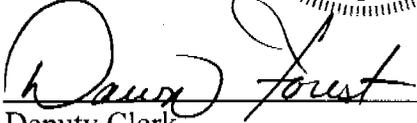
**SECTION 6.** This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

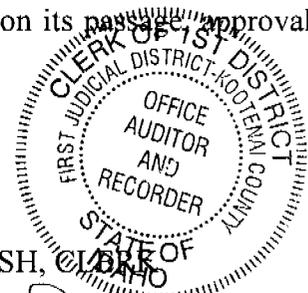
ADOPTED this 12th day of August 2010

**KOOTENAI COUNTY  
BOARD OF COMMISSIONERS**

  
\_\_\_\_\_  
Elmer R. Currie, Chairman

**ATTEST:**  
DANIEL J. ENGLISH, CLERK

By:   
\_\_\_\_\_  
Deputy Clerk



Absent from decision  
Richard A. Piazza, Commissioner

  
\_\_\_\_\_  
W. Todd Tondee, Commissioner

Publication Date: August 18, 2010