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RULE NO.: R161-17.03

POSTING DATE: January 4, 2017

NOTICE OF PROPOSED RULE

The Director of Watershed Protection Department proposes to adopt the following rule after November 6, 2016.

Comments on the proposed rule are requested from the public. Comments should be submitted to Dana McGehee, 505 Barton Springs Road, Suite 1200, Austin Texas, 78704, 974-2634, or via email at dana.mcgehee@austintexas.gov. To be considered, comments must be submitted before February 5, 2017, the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before February 5, 2017 (the 32nd day after the date of this notice) or not after March 15, 2017 (the 70th day after the date of this notice).

If a proposed rule is not adopted on or before March 15, 2017 it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Watershed Protection Department, located at 505 Barton Springs Road, Suite 1200, Austin, TX, 78704; and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas.

BRIEF EXPLANATION OF PROPOSED RULE

R161-17.03: Revises the Environmental Criteria Manual as follows:

Section 1.4.4 – Plan Development and Implementation

- **1.4.4.D.3 – Procedures During Construction:** Clarified that E&S control inspections shall be performed by a licensed engineer or certified inspector, which includes a designated engineer representative (or person directly supervised by the licensed engineer), CPESC-IT, CISEC-IT, or CESSWI-IT. Removed language that allows the owner to perform these type of inspections. Corrected reference to inspection log template in Appendix P-8. Added language that clarifies that silt accumulation upstream of a temporary control measure must be removed when the depth reaches 6 inches or 1/3 of the installed height of the control whichever is less.

Appendices

- **P-1 - Erosion Control Notes**
 - 1. Added “conduct pre construction tree fertilization (if applicable)”
 - 4. Added “pre construction tree fertilization (if applicable)” to pre-con requirements, updated department name, added EV inspection email to contact information.
 - 6. Clarified that E&S control inspections shall be performed by a licensed engineer, which includes a person directly supervised by the licensed engineer, or certified inspector, including CPESC-IT, CISEC-IT, or CESSWI-IT. Updated department name. Added the words “or bi-weekly” as it pertains to when inspection of E&S controls should occur. Removed the word significant (re: rain fall events) and replace with “one-half (½) inch or greater”. Added language that clarifies that silt accumulation upstream of a temporary control measure must be removed when the depth reaches 1/3 of the installed height of the control.
 - 9. Permanent Vegetation 2.D – updated the bare spot requirement to match current ECM (10 square feet)
 - 11. Updated department name.
- **P-4 - Standard Sequence of Construction:** Updated the language in items 1, 3, and 5 clarifying that compliance with the Erosion Sedimentation Control Plan (ESC) in addition to the Storm Water Pollution Prevention Plan is also required.

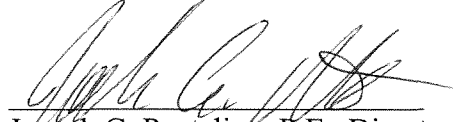
AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for the adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is established in Chapter 1-2 of the City Code. The authority to regulate water quality is established in Chapter 25-8 of the City Code.

CERTIFICATION BY CITY ATTORNEY


By signing this Notice of Proposed Rule (R161-17.03), the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

REVIEW AND APPROVED



Joseph G. Pantaloni, P.E., Director
Watershed Protection Department

Date: 12/13/16



Anne Morgan
City Attorney

Date: 12/20/16

This Notice of Proposed Rule was posted on a central bulletin board at City Hall by the City Clerk. Date and time stamp is on the front of the notice.

1.4.4 - Plan Development and Implementation

D. Procedures During Construction.

Proper installation, maintenance, and inspection of the approved control methods during the construction of a project are the final steps in assuring effective control of erosion and sedimentation. Implementation requires the combined efforts of the project engineer, contractor, owner, city inspectors, and, when needed, reviewers working together to achieve the best feasible control. The following sections highlight specific areas of individual and shared responsibility during the construction phase.

3. Inspection by the ~~Owner and~~ Contractor.

To assure continued effective operation of each methodology, ~~the owner and/or~~ a licensed engineer (or person directly supervised by the licensed engineer) or certified inspector (CPESC, CPESC – IT, CISEC, CISEC – IT, or CESSWI, or CESSWI - IT), (hereafter referred to as owner's representative) shall conduct ongoing inspections of all erosion/sedimentation controls and direct the person or firm responsible for maintenance to make any repairs or modifications necessary, within 48 hours of the initial notification. The owner's representative shall inspect the controls daily and keep on the job site an inspection log with updated entries at a minimum of once every 5 business days. Appendix ~~P-5~~ P-8 contains a template of an acceptable inspection log. The log shall contain at a minimum the following information: date and time of inspection, recording of previous days weather conditions, including rainfall, a list of all controls and a map of the contributing sub-basins to each control; condition of controls for each sub-basin; required maintenance; date that maintenance was performed; construction sequence for temporary stabilization, phasing and movable BMPs. Signature of owner's representative. The City inspector shall have the right to request and review the inspection log at the job site.

Daily inspections shall be made by the contractor and silt accumulation upstream of temporary control measures must be removed when depth reaches six (6) inches or one-third (1/3) of the installed height of the control whichever is less. Prior to acceptance or approval of the project by the city, haul roads and waterway crossings constructed for temporary access must be removed, accumulated sediment removed from the waterway and any basins that will be used as permanent stormwater controls and the area returned to original grade and revegetated. All land clearing debris shall be disposed of prior to acceptance of the project by the city.

APPENDIX P-1 - EROSION CONTROL NOTES

1. The contractor shall install erosion/sedimentation controls ~~and~~ tree/natural area protective fencing, and conduct "Pre-Construction" tree fertilization (if applicable) prior to any site preparation work (clearing, grubbing or excavation).
2. The placement of erosion/sedimentation controls shall be in accordance with the Environmental Criteria Manual and the approved Erosion and Sedimentation Control Plan. The COA ESC Plan shall be consulted and used as the basis for a TPDES required SWPPP. If a SWPPP is required, it shall be available for review by the City of Austin Environmental Inspector at all times during construction, including at the Pre-Construction meeting. The checklist below contains the basic elements that shall be reviewed for permit approval by COA EV Plan Reviewers as well as COA EV Inspectors.

— Plan sheets submitted to the City of Austin MUST show the following:

- ✓ Direction of flow during grading operations.
- ✓ Location, description, and calculations for off-site flow diversion structures.
- ✓ Areas that will not be disturbed; natural features to be preserved.
- ✓ Delineation of contributing drainage area to each proposed BMP (e.g., silt fence, sediment basin, etc.)
- ✓ Location and type of E&S BMPs for each phase of disturbance.
- ✓ Calculations for BMPs as required.
- ✓ Location and description of temporary stabilization measures.
- ✓ Location of on-site spoils, description of handling and disposal of borrow materials, and description of on-site permanent spoils disposal areas, including size, depth of fill and revegetation procedures.
- ✓ Describe sequence of construction as it pertains to ESC including the following elements:
 1. Installation sequence of controls (e.g. perimeter controls, then sediment basins, then temporary stabilization, then permanent, etc.)
 2. Project phasing if required (LOC greater than 25 acres)
 3. Sequence of grading operations and notation of temporary stabilization measures to be used
 4. Schedule for converting temporary basins to permanent WQ controls
 5. Schedule for removal of temporary controls
 6. Anticipated maintenance schedule for temporary controls

— Categorize each BMP under one of the following areas of BMP activity as described below:

- 3.1 Minimize disturbed area and protect natural features and soil
- 3.2 Control Stormwater flowing onto and through the project
- 3.3 Stabilize Soils
- 3.4 Protect Slopes
- 3.5 Protect Storm Drain Inlets

3.6 Establish Perimeter Controls and Sediment Barriers

3.7 Retain Sediment On-Site and Control Dewatering Practices

3.8 Establish Stabilized Construction Exits

3.9 Any Additional BMPs

— Note the location of each BMP on your site map(s).

— For any structural BMPs, you should provide design specifications and details and refer to them.

— For more information, see City of Austin Environmental Criteria Manual 1.4.

3. The Placement of tree/natural area protective fencing shall be in accordance with the City of Austin standard Notes for Tree and Natural Area Protection and the approved Grading/Tree and Natural Area Plan.
4. A pre-construction conference shall be held on-site with the contractor, design Engineer/permit applicant and Environmental Inspector after installation of the erosion/sedimentation controls ~~and~~ tree/natural area protection measures and "Pre-Construction" tree fertilization (if applicable) prior to beginning any site preparation work. The owner or owner's representative shall notify the ~~Planning and plan Review~~ Development Services Department, 512-974-2278 or by email at environmental.inspections@austintexas.gov, at least three days prior to the meeting date. COA approved ESC Plan and TPDES SWPPP (if required) should be reviewed by COA EV Inspector at this time.
5. Any major variation in materials or locations of controls or fences from those shown on the approved plans will require a revision and must be approved by the reviewing Engineer, Environmental Specialist or City Arborist as appropriate. Major revisions must be approved by authorized COA staff. Minor changes to be made as field revisions to the Erosion and Sedimentation Control Plan may be required by the Environmental Inspector during the course of construction to correct control inadequacies.
6. The contractor is required to provide a certified inspector ~~with that is~~ either a licensed engineer (or person directly supervised by the licensed engineer) or Certified Professional in Erosion and Sediment Control (CPESC or CPESC - IT), Certified Erosion, Sediment and Stormwater- Inspector (CESSWI or CESSWI - IT) or Certified Inspector of Sedimentation and Erosion Controls (CISEC or CISEC - IT) certification to inspect the controls and fences at weekly or bi-weekly intervals and after one-half (1/2) inch or greater significant rainfall events to insure that they are functioning properly. The person(s) responsible for maintenance of controls and fences shall immediately make any necessary repairs to damaged areas. Silt accumulation at controls must be removed when the depth reaches six (6) inches or one-third (1/3) of the installed height of the control whichever is less.
7. Prior to final acceptance by the City, haul roads and waterway crossings constructed for temporary contractor access must be removed, accumulated sediment removed from the waterway and the area restored to the original grade and revegetated. All land clearing debris shall be disposed of in approved spoil disposal sites.
8. All work must stop if a void in the rock substrate is discovered which is; one square foot in total area; blows air from within the substrate and/or consistently receives water during any rain event. At this time it is the responsibility of the Project Manager to immediately contact a City of Austin Environmental Inspector for further investigation.
9. Temporary and Permanent Erosion Control: All disturbed areas shall be restored as noted below:
 - A. All disturbed areas to be revegetated are required to place a minimum of six (6) inches of topsoil [see Standard Specification Item No. 601S.3(A)]. Do not add topsoil within the critical root zone of existing trees.

- Topsoil salvaged from the existing site is encouraged for use, but it should meet the standards set forth in 601S.

An owner/engineer may propose use of onsite salvaged topsoil which does not meet the criteria of Standard Specification 601S by providing a soil analysis and a written statement from a qualified professional in soils, landscape architecture, or agronomy indicating the onsite topsoil will provide an equivalent growth media and specifying what, if any, soil amendments are required.

- Soil amendments shall be worked into the existing onsite topsoil with a disc or tiller to create a well-blended material.

The vegetative stabilization of areas disturbed by construction shall be as follows:

TEMPORARY VEGETATIVE STABILIZATION:

1. From September 15 to March 1, seeding shall be with or include a cool season cover crop: (Western Wheatgrass (*Pascopyrum smithii*) at 5.6 pounds per acre, Oats (*Avena sativa*) at 4.0 pounds per acre, Cereal Rye Grain (*Secale cereale*) at 45 pounds per acre. Contractor must ensure that any seed application requiring a cool season cover crop does not utilize annual ryegrass (*Lolium multiflorum*) or perennial ryegrass (*Lolium perenne*). Cool season cover crops are not permanent erosion control.
2. From March 2 to September 14, seeding shall be with hulled Bermuda at a rate of 45 pounds per acre or a native plant seed mix conforming to Items 604S or 609S.
 - A. Fertilizer shall be applied only if warranted by a soil test and shall conform to Item No. 606S, Fertilizer. Fertilization should not occur when rainfall is expected or during slow plant growth or dormancy. Chemical fertilizer may not be applied in the Critical Water Quality Zone.
 - B. Hydromulch shall comply with Table 1, below.
 - C. Temporary erosion control shall be acceptable when the grass has grown at least 1½ inches high with a minimum of 95% total coverage so that all areas of a site that rely on vegetation for temporary stabilization are uniformly vegetated, and provided there are no bare spots larger than 10 square feet.
 - D. When required, native plant seeding shall comply with requirements of the City of Austin Environmental Criteria Manual, and Standard Specifications 604S or 609S.

Table 1: Hydromulching for Temporary Vegetative Stabilization

Material	Description	Longevity	Typical Applications	Application Rates
100% or any blend of wood, cellulose, straw, and/or cotton plant material (except no mulch shall exceed 30% paper)	70% or greater Wood/Straw 30% or less Paper or Natural Fibers	0—3 months	Moderate slopes; from flat to 3:1	1,500 to 2,000 lbs per acre

PERMANENT VEGETATIVE STABILIZATION:

1. From September 15 to March 1, seeding is considered to be temporary stabilization only. If cool season cover crops exist where permanent vegetative stabilization is desired, the grasses shall be mowed to a height of less than one-half ($\frac{1}{2}$) inch and the area shall be re-seeded in accordance with Table 2 below. Alternatively, the cool season cover crop can be mixed with Bermudagrass or native seed and installed together, understanding that germination of warm-season seed typically requires soil temperatures of 60 to 70 degrees.
2. From March 2 to September 14, seeding shall be with hulled Bermuda at a rate of 45 pounds per acre with a purity of 95% and a minimum pure live seed (PLS) of 0.83. Bermuda grass is a warm season grass and is considered permanent erosion control. Permanent vegetative stabilization can also be accomplished with a native plant seed mix conforming to Items 604S or 609S.
 - A. Fertilizer use shall follow the recommendation of a soil test. See Item 606S, Fertilizer. Applications of fertilizer (and pesticide) on City-owned and managed property requires the yearly submittal of a Pesticide and Fertilizer Application Record, along with a current copy of the applicator's license. For current copy of the record template contact the City of Austin's IPM Coordinator.
 - B. Hydromulch shall comply with Table 2, below.
 - C. Water the seeded areas immediately after installation to achieve germination and a healthy stand of plants that can ultimately survive without supplemental water. Apply the water uniformly to the planted areas without causing displacement or erosion of the materials or soil. Maintain the seedbed in a moist condition favorable for plant growth. All watering shall comply with City Code Chapter 6-4 (Water Conservation), at rates and frequencies determined by a licensed irrigator or other qualified professional, and as allowed by the Austin Water Utility and current water restrictions and water conservation initiatives.
 - D. Permanent erosion control shall be acceptable when the grass has grown at least 1½ inches high with a minimum of 95 percent for the non-native mix, and 95 percent coverage for the native mix so that all areas of a site that rely on vegetation for stability must be uniformly vegetated, and provided there are no bare spots larger than ~~46~~10 square feet.
 - E. When required, native plant seeding shall comply with requirements of the City of Austin Environmental Criteria Manual, Items 604S and 609S.

Table 2: Hydromulching for Permanent Vegetative Stabilization

Material	Description	Longevity	Typical Applications	Application Rates
Bonded Fiber Matrix (BFM)	80% Organic defibrated fibers			
10% Tackifier	6 months	On slopes up to 2:1 and erosive soil conditions	2,500 to 4,000 lbs per acre (see manufacturers recommendations)	
Fiber Reinforced	65% Organic defibrated fibers	Up to 12 months	On slopes up to 1:1 and erosive soil conditions	3,000 to 4,500 lbs per acre (see manufacturers

Matrix (FRM)	25% Reinforcing Fibers or less 10% Tackifier			recommendations)
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10. Developer Information:

Owner _____

Phone # _____

Address _____

Owner's representative responsible for plan alterations: _____

Phone # _____

Person or firm responsible for erosion/sedimentation control maintenance: _____

Phone # _____

Person or firm responsible for tree/natural area protection Maintenance: _____

Phone # _____

11. The contractor shall not dispose of surplus excavated material from the site without notifying the ~~Planning and Development Review Services~~ Department at 512-974-2278 at least 48 hours prior with the location and a copy of the permit issued to receive the material.

APPENDIX P-4: - STANDARD SEQUENCE OF CONSTRUCTION

The following sequence of construction shall be used for all development. The applicant is encouraged to provide any additional details appropriate for the particular development.

1. Temporary erosion and sedimentation controls are to be installed as indicated on the approved site plan or subdivision construction plan and in accordance with the Erosion Sedimentation Control Plan (ESC) and Stormwater Pollution Prevention Plan (SWPPP) that is required to be posted on the site. Install tree protection, ~~and~~ initiate tree mitigation measures and conduct "Pre - Construction" tree fertilization (if applicable).
2. The Environmental Project Manager or Site Supervisor must contact the ~~Watershed Protection Development Services~~ Department, Environmental Inspection, at 512-974-2278, 72 hours prior to the scheduled date of the required on-site preconstruction meeting.
3. The Environmental Project Manager, and/or Site Supervisor, and/or Designated Responsible Party, and the General Contractor will follow the Erosion Sedimentation Control Plan (ESC) and Storm Water Pollution Prevention Plan (SWPPP) posted on the site. Temporary erosion and sedimentation controls will be revised, if needed, to comply with City Inspectors' directives, and revised construction schedule relative to the water quality plan requirements and the erosion plan.
4. Rough grade the pond(s) at 100% proposed capacity. Either the permanent outlet structure or a temporary outlet must be constructed prior to development of embankment or excavation that leads to ponding conditions. The outlet system must consist of a sump pit outlet and an emergency spillway meeting the requirements of the Drainage Criteria Manual and/or the Environmental Criteria Manual, as required. The outlet system shall be protected from erosion and shall be maintained throughout the course of construction until installation of the permanent water quality pond(s).
5. Temporary erosion and sedimentation controls will be inspected and maintained in accordance with the Erosion Sedimentation Control Plan (ESC) and Storm Water Pollution Prevention Plan (SWPPP) posted on the site.
6. Begin site clearing/construction (or demolition) activities.
7. In the Barton Springs Zone, the Environmental Project Manager or Site Supervisor will schedule a mid-construction conference to coordinate changes in the construction schedule and evaluate effectiveness of the erosion control plan after possible construction alterations to the site. Participants shall include the City Inspector, Project Engineer, General Contractor and Environmental Project Manager or Site Supervisor. The anticipated completion date and final construction sequence and inspection schedule will be coordinated with the appropriate City Inspector.
8. Permanent water quality ponds or controls will be cleaned out and filter media will be installed prior to/concurrently with revegetation of site.
9. Complete construction and start revegetation of the site and installation of landscaping.
10. Upon completion of the site construction and revegetation of a project site, the design engineer shall submit an engineer's letter of concurrence bearing the engineer's seal, signature, and date to the ~~Watershed Protection and Development Review~~ Development Services Department indicating that construction, including revegetation, is complete and in substantial ~~conformity~~compliance with the approved plans. After receiving this letter, a final inspection will be scheduled by the appropriate City Inspector.
11. Upon completion of landscape installation of a project site, the Landscape Architect shall submit a letter of concurrence to the ~~Watershed Protection and Development Review~~ Development Services Department indicating that the required landscaping is complete and in substantial

conformity with the approved plans. After receiving this letter, a final inspection will be scheduled by the appropriate City Inspector.

12. After a final inspection has been conducted by the City Inspector and with approval from the City Inspector, remove the temporary erosion and sedimentation controls and complete any necessary final revegetation resulting from removal of the controls. Conduct any maintenance and rehabilitation of the water quality ponds or controls.

