

**Topic:** Erosion & Sedimentation Control  
**Resource Type:** Regulations  
**State:** Oregon  
**Jurisdiction Type:** Municipal  
**Municipality:** City of Eugene  
**Year** (*adopted, written, etc.*): 1996  
**Community Type – applicable to:** Urban; Suburban  
**Title:** City of Eugene Ordinance Concerning Erosion Prevention and Construction Site Management Practices  
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### ***Abstract***

In 1994 Eugene became the first city of its size in the nation to be issued a municipal NPDES stormwater permit. To protect local waterways from construction-related activities, the City implemented the Erosion Prevention and Construction Site Management program in 1997. This program relies upon an "outcome-based" approach allowing contractors to choose the erosion prevention and construction site management practices best suited for a site. Eugene must approve erosion permits before any other construction permits are issued. Applicants must submit plans for approval, identifying potential water-quality impacts from construction activities and specify actions to address them.

### ***Resource***

#### **Ordinance No. 20067**

#### **An Ordinance Concerning Erosion Prevention and Construction Site Management Practices;**

Adding Sections 6.625, 6.630, 6.635, 6.640 and 6.645 to the Eugene Code, 1971; Amending Sections 6.406, 6.990 and 8.005 of That Code; and Providing an Effective Date.

The City of Eugene Does Ordain as Follows:

#### **Section 1.**

The following caption and Sections 6.625, 6.630, 6.635, 6.640 and 6.645 are hereby added to the Eugene Code, 1971, to provide:

- [Erosion Prevention - Purpose](#)
- [Erosion Prevention - Applicability and Compliance](#)
- [Erosion Prevention - Permits](#)
- [Erosion Prevention - Enforcement](#)
- [Erosion Prevention - Rules](#)

- [Definitions](#)
- [Penalties - Specific](#)
- [Administrative Code](#)

### **6.625 Erosion Prevention - Purpose.**

Sections 6.625 to 6.645, and the rules issued thereunder, are intended to restrict the discharge of sediments or other construction related materials, including hazardous substances as defined in section 6.340, into the city's stormwater system in order to:

- (a) Prevent or minimize, to the maximum extent practicable, negative impacts to adjacent properties, water quality, and related natural resources resulting from construction activities; and
- (b) Maintain the capacity of the city's stormwater system by minimizing sedimentation.

### **6.630 Erosion Prevention - Applicability and Compliance.**

#### **(1) Scope.**

The provisions of sections 6.625 to 6.645, and the rules issued thereunder, apply to all construction related activities that result in any one or all of the following:

- (a) Land disturbance, including, but not limited to clearing, grading, grubbing, logging, excavating, filling, and storing of materials;
- (b) Structural development, including, but not limited to buildings, bridges, roads, and other infrastructure;
- (c) Impervious surfaces, including, but not limited to parking lots, driveways, walkways, and patios; or
- (d) Dewatering. Notwithstanding the foregoing, the following activities shall be exempt from the provisions of sections 6.625 to 6.645: (I) actions by a public utility, the city, or any other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; or (ii) actions by any other person when the city determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.

#### **(2) Compliance.**

No person shall engage in any construction related activity covered by subsection (1) in a manner that can potentially impact water quality, except as allowed by this code. All persons shall implement erosion prevention measures designed to meet the outcomes established in administrative rules promulgated by the city manager. Failure to meet those outcomes shall subject the person to the same enforcement provisions as those applicable to a permit holder under section 6.640.

### **6.635 Erosion Prevention - Permits.**

## **(1) Erosion Prevention Permit.**

### **(a) Permit required.**

Except as otherwise provided in subsection (3) below, no person shall commence any construction related activity without first obtaining from the city one of the erosion prevention permits listed in subparagraph (b) if the construction related activity:

1. Disturbs five acres or more of land at any one time by one or more phases of development, and the disturbance is located on the same parcel of land or on contiguous parcels of land under the same ownership; or
2. Is located in a sensitive area. The criteria for classifying sites, and the classification of such sites as sensitive areas shall be established in administrative rules issued by the city manager.

### **(b) Permit classifications.**

The city manager may issue all of the following types of permits, any of which will meet the requirements of subsection (a) of this section:

1. Individual permit. A property owner or easement holder of record may obtain a separate individual permit for each construction activity on the same parcel of land.
2. Umbrella permit. A property owner or easement holder of record may obtain an umbrella permit for multiple construction activities on the same parcel of land that are proposed in connection with a development, including utility work, private infrastructure, structures, and other site improvements.
3. Annual permit. An annual permit may be issued for minor recurring activities.

### **(c) Application.**

The application for an erosion prevention permit shall be accompanied by:

1. Fee. A fee established by the city manager pursuant to section 2.020 of this code in an amount sufficient to recover the city's administrative costs;
2. Construction site management plan for individual and umbrella permits. A construction site management plan prepared by a certified professional(s) designated by the manager in rules adopted hereunder. The construction site management plan need not be prepared by a certified professional if the development is one (1) single family dwelling or one (1) duplex dwelling. The construction site management plan shall be kept at the construction site and available for on-site inspection purposes. The construction site management plan shall identify: potential water quality impacts associated with the proposed construction activities; techniques and methods to be used to prevent and control erosion, sedimentation, and other pollutants associated with construction activity; and the location, design, and construction schedule for all erosion, sedimentation, and other construction site management control measures to be implemented and maintained; and
3. Work, scope and practices for annual permit. No construction site management plan shall be required for an annual permit. Instead, the applicant shall provide a description of the scope of work to be performed and the practices to be employed for meeting the requirements of sections 6.625 to 6.645 of this code. A copy of the annual permit shall be kept at the site and available for on-site inspection purposes.

### **(d) Review and Issuance.**

The application for the erosion prevention permit shall be reviewed by the city and approved, approved with conditions, or denied, based on criteria set forth in rules adopted by the city manager. The criteria to be adopted shall be designed to achieve the objectives listed in section 6.625. Issuance of an erosion prevention permit may be subject to conditions imposed by the city including, but not limited to, specific erosion and sedimentation prevention measures and schedules.

**(e) Permit Duration.**

An erosion prevention permit shall remain in effect for the full period of the construction activity. The manager may extend the duration of the permit for a period of up to, but not to exceed, two years after completion of the construction activity if the manager determines the extension is necessary to ensure that the construction activity has stabilized in accordance with the outcomes identified in the administrative rules.

**(2) Appeal.**

Within the time and in the manner prescribed in section 2.021 of this code, the applicant for a permit may appeal (a) the denial of a permit, (b) any conditions imposed on a permit, (c) the determination that the property is located in a sensitive area, or (d) an extension of the duration of a permit under section 6.635(1)(e).

**(3) Waiver of Erosion Prevention Permit.**

Notwithstanding any other provisions of this section, the following activities shall not require an erosion prevention permit:

- (a) Construction activities involving the disturbance of less than 500 square feet of land surface area, or which consist of the excavation and/or fill of less than 20 cubic yards of material;
- (b) Issuance of permits and/or approvals for land divisions, interior improvements to an existing structure, or other approvals for which there is no physical disturbance to the surface of the land; and
- (c) Annual landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape.

**6.640 Erosion Prevention - Enforcement.**

**(1) Enforcement Policy.**

The primary focus of sections 6.625 to 6.645 is to implement measures for preventing erosion and minimizing stormwater impact that will meet the outcomes established in administrative rules promulgated by the city manager, and the city will use the amount of enforcement necessary to achieve compliance. Where possible the city will rely on education rather than enforcement. The manager may provide educational programs or other informational materials that will assist permittees in meeting the desired erosion and sedimentation controls, and other construction site management practices outcomes.

**(2) Inspections.**

The city may make periodic inspections to ensure compliance with this code, rules issued hereunder, or conditions imposed on an erosion prevention or other permit.

### **(3) Violations.**

Failure to comply with the provisions of this code, rules issued hereunder, the erosion prevention permits, or conditions imposed thereon, during the period that the permit(s) remains in effect may result in:

- (a) The issuance of a stop work order or compliance order by the city;
- (b) The issuance of a citation into municipal court for violation of this code; and/or
- (c) The imposition of an administrative civil penalty pursuant to the provisions of section 2.018 of this code.

Failure to comply with any stop work or compliance order issued by the city shall constitute a separate violation. Each day a violation continues also shall constitute a separate violation.

### **(3) Appeal.**

Any person to whom an order is issued may appeal a stop work order or compliance order within the time and in the manner prescribed in section 2.021 of this code. Notwithstanding any other provision of this code, a stop work order or compliance order shall be effective upon issuance, and shall continue in effect during the pendency of any appeal.

### **6.645 Erosion Prevention - Rules.**

The city manager may adopt rules for implementation of sections 6.625 to 6.640, following the procedures in section 2.019 of this code. The rules may include, but need not be limited to:

- (a) The form and content of an erosion prevention permit;
- (b) Additional criteria for identifying "sensitive areas" within the city, and preparation of a map identifying sensitive areas;
- (c) The definition of a certified professional;
- (d) The definition of maximum extent practicable;
- (e) The form and minimum criteria to be included in a construction site management plan, including required construction site management practices;
- (f) Erosion prevention design standards; and
- (g) Criteria for violation of sections 6.625 to 6.640 of the Eugene Code, 1971.

### **Section 2.**

The first paragraph of Section 6.406 of the Eugene Code, 1971, is amended, and new definitions of "Construction activity," "Construction related materials," "Construction site management plan," "Dewatering," "Emergency condition," "Fully developed property," "Jurisdictional wetland," "Minor recurring activities," "Person," "Related natural resources," "Sensitive areas," and "Wetland," are added in alphabetical order therein, to provide:

#### **6.406 Definitions.**

For purposes of sections 6.401 through 6.645, unless the context requires otherwise words and phrases shall have the meaning ascribed to them. In interpreting the meaning of words in a definition, other definitions of that word in this Code may be considered:

##### **Construction activity.**

An activity used in the process of developing, redeveloping, enhancing, or maintaining land, including, but not limited to: land disturbance, building construction, paving and surfacing, storage and disposal of construction related materials.

##### **Construction related materials.**

Potential water quality pollutants that are used or created during construction activities including, but not limited to, off-site deposits of sediments by vehicles (e.g., tracking, spilling), building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood; paints and thinners; packaging materials; insulation, plaster grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, thinners); and concrete washout.

##### **Construction site management plan.**

A set of maps, data, drawings, and narrative that describes expected runoff from new construction sites, and establishes measures to be taken for preventing erosion, sediments, and other pollutants from construction related activities.

##### **Dewatering.**

The removal and disposal of surface water or groundwater for purposes of preparing a site for construction.

##### **Emergency condition.**

An immediate danger to life, property, or the environment due to circumstances beyond the control of the property owner including, but not limited to, natural and human-caused disasters such as fires, floods, slides, earthquakes, sinkholes and tree blow-down.

##### **Fully developed property.**

A parcel of land that contains buildings, pavement, and other facilities, including landscaped areas, and due to these uses the parcel cannot be further developed.

##### **Jurisdictional wetland.**

Any parcel or portion of a parcel which meets the state or federal definition of wetlands that are under the jurisdiction of state or federal laws. Synonymous with "wetland."

**Minor recurring activities.**

Repetitive construction activities that are performed as part of an overall work plan and no individual disturbance exceeds more than 500 square feet of land area and 50 cubic yards of fill or excavated material.

**Person.**

An individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state and any agency thereof, political subdivision of the state, interstate body or the federal government, including any agency thereof.

**Related natural resources.**

Natural resources located within or adjacent to the city's stormwater system, such as waterways, wetlands, and riparian areas, that provide one or more of the following stormwater functions: flood control, water quality treatment, and streambank stabilization.

**Sensitive areas.**

Those places that are highly susceptible to erosion or sedimentation.

**Wetland.**

Any parcel or portion of a parcel which meets state or federal definition of wetlands that are under the jurisdiction of state or federal laws. Synonymous with "jurisdictional wetland."

**Section 3.**

Section 6.990 of the Eugene Code, 1971, is amended by adding a new Subsection (11) thereto, to provide:

**6.990 Penalties - Specific.**

(11) Violation of sections 6.625 to and including section 6.645 is punishable by a fine of up to \$2,500 per day per violation.

**Section 4.**

Subsection (13)(a) of Section 8.005 of the Eugene Code, 1971, is amended to provide:

**8.005 Administrative Code.**

### **(13) Determination and issuance of permits.**

#### **(a) Issuance.**

If work described in the application and related materials conforms to the requirements of this code, the technical codes, other pertinent laws and regulations adopted by the city manager, and the required fees have been paid, the city manager shall issue a permit to the applicant. Approved plans and specifications shall not be changed, modified or altered without authorization from the city manager, and all work shall be done in accordance with the approved plans. Notwithstanding any other provision of this code, the city manager may deny or refuse to issue a permit under this section if the applicant has not obtained an erosion prevention permit under section 6.635, where required.

#### **Section 5.**

Notwithstanding the effective date of this ordinance pursuant to the Eugene Charter, 1976 and the Eugene Code, 1971, no erosion permits shall be required under Section 6.635 until February 1, 1997.

#### **Section 6.**

The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971 to the provisions added herein.

Passed by the City Council and Approved by the Mayor this 16th day of October, 1996.