

## 4N Sample Ordinance

## MANAGEMENT PRACTICES ADMINISTRATIVE RULE R-6.645

### R-6.645-A Purpose and Intent.

1. Purpose. These rules implement Sections 6.625 to 6.645 of the Eugene Code, 1971, which were adopted to restrict the discharge of sediments or other construction related materials, including hazardous substances, into the City's stormwater system in order to:

1.1 Prevent or minimize, to the maximum extent possible, negative impacts to adjacent properties, water quality and related natural resources resulting from construction activities; and

1.2 Maintain the capacity of the City's stormwater system by minimizing sedimentation.

2. Intent. The intent of these rules, in implementing sections 6.625 to 6.645 of the Eugene Code, 1971, is to ensure that construction related activities prevent or minimize erosion, sedimentation, and other stormwater related problems identified in subsection 1 above. To carry-out the intent of these rules, it is the goal of the City's erosion prevention program to review and respond to all erosion permit applications in a timely manner so that these provisions do not increase the time frame for issuing other permits. These rules are designed to provide developers and property owners with broad discretion for addressing potential impacts of construction related activities, so long as the erosion prevention measures achieve the desired outcomes. These rules therefore do not specify or mandate the use of certain erosion prevention measures, and instead, provide applicants with flexibility to choose or design erosion prevention measures subject to review by the City. The issuance of an erosion prevention permit by the City will not necessarily reflect concurrence by the City that the proposed measures will work. Instead, the City's review may be more limited in many cases, relying on the certification of the owners' certified professional that the proposed measures will achieve the mandated outcomes. In such cases, the City's review may be limited to making an evaluation that the proposed measures address anticipated impacts. Where the City is uncertain about the likely success of the proposed measures, the City may issue the permit, and monitor the site to determine whether the measures are achieving the outcomes. If the erosion prevention measures have not been successful in achieving those outcomes, the City will require compliance.

### R-6.645-B Definitions.

In additions to the definitions contained in Sections 6.405 and 6.625 to 6.645 of the Eugene Code, 1971, as used herein, the following words and phrases mean:

Adjacent property. Property where erosion and/or sedimentation or construction

material impacts are occurring and the cause of impact is directly related to a construction activity from a separate parcel.

**Annual landscape activities.** Activities necessary to maintain the health and function of developed landscaped areas, including but not limited to: tilling, sodding, mowing, aerating, and pruning.

**Certified professional.** A person who holds an Oregon license in one of the following professions: engineer, architect, landscape architect, or is in a similar profession as determined by the City Manager; or a person who is certified as a geologist or as a professional in erosion and sedimentation control by the International Erosion Control Association, or any other similar organization, or by the City, as determined by the City Manager.

**City Manager.** The City Manager of the City of Eugene, or the Manager's designee.

**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 footprint.** That area of a parcel where disturbance to vegetation and landform is necessary for the construction of buildings, parking lots, walkways, landscaping, utilities, and for staging of construction equipment and other similar uses associated with construction activities.

**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.

**Designated buffer.** An area established by the Eugene Code, 1971, including but not limited to sections 9.262(3)(b) and 9.264(3), that separates a protected natural resource site, such as a wetland or water feature, from a conflicting use, or its designated buffer area.

**Dewatering.** The removal and disposal of surface water or groundwater for purposes

of preparing a site for construction.

**Directly drains.** The conveyance and discharge of stormwater runoff - either on the surface or by an open channel or pipe - into a water feature that is located on or adjacent to the parcel or tax lot of record for which construction activities are planned, or its designated buffer area.

**Disturbed area.** A parcel or a portion of a parcel of land where the vegetation, landform, or topography is altered due to logging, clearing, grubbing, grading, paving, stock piling, or building.

**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.

**Enforcement Officer.** The person designated by the City Manager to enforce the provisions of Sections 6.625 to 6.645 of the Eugene Code, 1971 and these rules.

**Erosion prevention.** Measures to be taken for preventing and/or minimizing impacts to the City's stormwater system and related natural resources due to soil erosion from water and wind forces, sedimentation, and other potential impacts associated with construction activities such as handling and storage of building materials and disposal of building material wastes.

**Fully developed property.** A parcel of land that contains buildings, pavement and other facilities, including landscaped areas and due to these uses is not capable of additional expansion.

**Highly erodible soils.** Soil map units as classified by the Natural Resources Conservation Service (NRCS - formerly the Soil Conservation Service) as being highly erodible. Based on factors from the Universal Soil Loss Equation, the NRCS classification system considers soil erodibility (K factor), climate, slope, steepness, length, and soil loss tolerance (T factor).

**Immediate clean-up.** Not later than the end of the work shift in which the violation occurred, but in no event shall it occur later than midnight of the day in which it occurred.

**Improper disposal.** Disposal of any construction related material in a manner that causes, or has the potential to cause, the discharge of pollutants to the City's stormwater system or related natural resource, the depletion of the capacity of the City's stormwater system, or the contamination of soils.

**Improper-storage.** Handling or storing of any construction related materials in a manner that, due to leaks, spills, leachates, deposits or dumps, causes or has the potential to cause the discharge of pollutants to the City's stormwater system or related natural resources, the depletion of the capacity of the City's stormwater system, or the contamination of soils.

**Jurisdictional wetlands.** 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 wetlands.

**Land disturbance.** Activities that can change the physical conditions of landform, vegetation, and hydrology including, but not limited to, clearing, grading, grubbing, excavating, filling, logging, and storing of materials.

**Maximum extent practicable.** A level of effort to be undertaken where technical feasibility and financial costs to be incurred are appropriate, as determined by the criteria in Section R-6.645-D.2 of this Rule, for the probable negative impacts to water quality to be minimized.

**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.

**Permit Holder.** The property owner or easement holder of record of the parcel or tax lot for which construction activities are planned.

**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.

**Routine Maintenance.** Activities and practices that are necessary to maintain the operating capacity, functional integrity, or aesthetics of a place or facility. Routine maintenance includes, but is not limited to, landscaping, repair of recreation facilities (e.g., ball diamonds, play areas, fields), cleaning of stormwater facilities, and patching of streets.

**Sensitive area.** Sites that meet the criteria contained in R-6.645-E.1.

**Template.** An example of a construction site management plan provided by the City

of Eugene that - when modified by the erosion prevention permit holder to address site specific conditions - can be used to satisfy permit requirements for a single dwelling or duplex dwelling. The template may be prepared by the permit holder or the permit holder's designee.

**Untreated runoff.** Contaminated stormwater runoff due to construction activities that has not been filtered, screened, settled, or otherwise treated for the removal of pollutants, prior to discharge into the City's stormwater system or related natural resources.

**Water features.** Permanent or intermittent bodies of water, including creeks, streams, ponds, rivers, lakes, drainage channels and jurisdictional wetlands.

**Vegetative buffer.** A strip of land not less than 25 feet in width separating a construction activity from either a water feature or a property line, whichever is nearest, containing a vegetation that covers at least 75% of the buffer area.

**Visible or measurable erosion.** The deposit of mud, soil, sediment or similar material exceeding one-half cubic foot in volume for every 1,000 square feet of lot size onto public rights of way or private streets, into the City's stormwater system or related natural resources, either by direct deposit, dropping, discharge, or as a result of the action of erosion; evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or evidence of on-site erosion such as rivulets on bare soil slopes where the flow of water is not filtered or captured on the site using the techniques recommended in the City's Erosion Prevention and Construction Site Management Practices Planning and Design Manual, or comparable techniques; and, earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.

**Wetlands.** 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 jurisdictional wetlands.

**R-6.645-C Applicability.**

1. These rules, and Sections 6.625 to 6.645 of the Eugene Code, 1971 apply to all construction related activities that result in any one or all of the following:

1.1 Land disturbance;

1.2 Structural development, including, but not limited to buildings, bridges, roads, and other infrastructure;

1.3 Impervious surfaces, including, but not limited to parking lots, driveways,

walkways, and patios; or

1.4 Dewatering.

2. No person shall engage in any construction related activity covered by Subsection R-6.645-C.1 of these Rules except as allowed by the Eugene Code 1971 and these rules. All persons shall prevent and/or control erosion, sedimentation, and other construction related impacts to stormwater quality in a manner designed to meet the outcomes specified in R-6.645-D. Failure to implement measures that meet those outcomes shall subject the person to the same enforcement provisions as those applicable to a permit holder under section 6.640 of the Eugene Code and R-6.645-F of the Rules. This requirement shall be implemented through one of the following provisions:

2.1 Issuance of an Erosion Prevention Permit in accordance with Section R-6.645-F of these Rules;

2.2 For all other construction activities not subject to the erosion prevention permit requirements, compliance by property owners with the standards for preventing and controlling erosion, sedimentation, and other impacts associated with construction site management practices. The City will make information about these requirements available through a variety of techniques, including public outreach programs, handout materials, and other educational efforts to assist property owners in meeting this obligation.

3. Notwithstanding Subsection 1 above, the following activities are exempt from the provisions of Sections 6.625 to 6.645 of the Eugene Code, 1971 and these rules:

3.1 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

3.2 Actions by any other person when the City determines, and documents in writing, that such actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.

**R-6.645-D Outcomes.**

1. All persons conducting construction activities covered by R-6.645-C.1. shall employ, to the maximum extent practicable, erosion prevention and construction site management practices which result in the following outcomes:

1.1 No deposit or discharge of sediment from a site onto adjacent properties or into water features and related natural resources in excess of those that occur through natural

processes;

1.2 No degradation of water features due to removal of streambank vegetation from construction sites in excess of those that occur through natural processes;

1.3 No deposit of mud, soil, sediment, concrete washout, trash, or other similar construction related material exceeding one-half cubic foot in volume for every 1,000 square feet of lot size onto public rights of way and private streets, and into the City's stormwater system and related natural resources, either by direct deposit, dropping, discharge, erosion, or tracking by construction vehicles, in excess of those that occur through natural processes. Any such discharge shall be cleaned-up at the end of the current work shift in which the deposit occurred, or at the end of the current work day, whichever comes first.

1.4 No exposure of soils and stockpile areas to stormwater runoff without secondary containment and treatment measures.

1.5 No earth slides, mudflows, earth sloughing, or other earth movement which may leave the property, in excess of those that occur through natural processes;

1.6 No discharge of runoff containing construction related contaminants into the City's stormwater system or related natural resources; and

1.7 No release onto the site of hazardous substances, such as paints, thinners, fuels and other chemicals.

2. Maximum extent practicable. Implementation of a stormwater management practice is considered practicable unless one or more of the following applies:

2.1 The practice is not technically feasible for the proposed use and physical characteristics of the site;

2.2 The cost of implementing the practice would outweigh the benefits of maintaining water quality. Costs are considered to outweigh benefits if they exceed \$0.50 per square foot of disturbed area.

Costs to be considered under subparagraph R-6.645-D.2.2 include permit fees, design preparation (construction site management plan/template), construction of construction site management measures, and monitoring by a professional. Costs do not include: maintenance of management measures, actions taken to correct violations, and permanent landscape and associated design fees.

3. When designing and implementing management measures to meet the above outcomes, the applicant shall consider the seasonal variation of rainfall, temperature, and other climatic factors relative to the timing of land disturbance activities. Management measures shall be



adjusted to meet increased stormwater runoff flows and velocities between November 1 and April 30 of the following calendar year.

4. No permit or other approval issued pursuant to these rules shall be deemed to authorize any violation of the above prohibitions.

**R-6.645-E Designation of Sensitive Areas.**

1. **Criteria for Sensitive Area Designation.** For the purposes of administering these Rules, any construction site that meets one or more of the following criteria shall be considered a sensitive area for which an erosion prevention permit will be required:

1.1 The slope of the parcel in the area of disturbance is greater than 10%;

1.2 The site contains highly erodible soils; or

1.3 The parcel or tax lot of record has the potential to directly drain into a water feature or its designated buffer area.

2. **Determination of Sensitive Area.** To assist with the administration of these provisions, the City has prepared a map indicating sites that appear to meet the above criteria. The Public Works Director, or designee, shall use this map to make a preliminary determination of a site's sensitive area status. The map is on file at the City's Public Works Engineering Department (858 Pearl Street) and Permit & Information Center (99 West 10th Avenue).

An applicant may challenge the Director's preliminary determination that a site is a sensitive area through submission of actual field or site information that demonstrates to the City's satisfaction that the site's existing physical features, such as a continuous vegetative perimeter buffer which prevents discharge of sediments, mitigate potential stormwater quality impacts, and the Director shall thereafter make a final determination of whether the site is a sensitive area.

If an applicant chooses not to contest the designation or is unable to satisfy the above criteria, the site shall be considered a sensitive area and an erosion prevention permit shall be required.

3. **Appeal of designation.** An applicant who disagrees with the Director's final determination may appeal that decision within the time and manner prescribed in section R-6.645-F.11 of these Rules.

**R-6.645-F Erosion Prevention Permits.**

1. **Permit Required.** Except as otherwise provided in these rules or provisions of the

Eugene Code, 1971, no person shall commence any construction related activity without first obtaining from the City an erosion prevention permit if the construction related activity will:

- 1.1 Disturb five or more acres 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
- 1.2 Is located in a sensitive area as designated pursuant to R-6.645-E of these rules.

2. **Waiver of Erosion Prevention Permit.** Notwithstanding any other provisions of this section, the following activities shall not require an erosion prevention permit. However, under no circumstances shall this waiver be construed to mean that these activities are exempt from any of the erosion prevention requirements of the Eugene Code, 1971 and these rules other than the requirement to obtain an erosion prevention permit; the following activities are subject to other provisions, including but not limited to Outcome requirements in Section R-6.645-D of this Rule.

2.1 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;

2.2 The 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

2.3 Annual landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape.

3. **Permit Classifications.** A variety of permits may be issued to address different circumstances. Regardless of permit type, the property owner or easement holder of record is the responsible party for the permit. If property ownership changes before the permit is finalized, the new property owner assumes the responsibility of the permit and any outstanding issues associated with the permit. The following permits may be issued to meet the requirements of these rules provided the associated eligibility requirements are met:

3.1 **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. For example, the individual permit allows a property owner to obtain a permit for building construction activities and a utility to obtain a separate permit for utility purposes.

3.2 **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. This permit allows one permit to be issued for all construction activities and all phases of development.

3.3 Annual Permit. An annual permit may be issued for minor recurring activities. The annual permit is intended to provide a streamlined permit process for entities that perform repetitive activities on a frequent basis. This provision allows one permit to be issued for more than one project within a calendar year. To qualify for an annual permit, the following criteria shall be met:

3.3.1 Construction activities are minor and recur on a frequent basis. Examples include but are not limited to: utility service connections and extensions, repair of utility and infrastructure facilities.

3.3.2 Permits may be issued for a full calendar year, and shall expire on or before December 31 of the year issued.

4. Application. In addition to the payment of any required fees, an application for an erosion prevention permit shall include a completed Construction Site Management Plan (except for an Annual Permit, refer to Section R-6.645-F7.4), prepared in accordance with Subsection 7 of this Section, or a template prepared in accordance with subsection 7.3.

5. Independent Permit Processing. The application and processing of other City of Eugene permits, such as, but not limited to, grading, privately engineered public improvements, foundation and building permits, are independent of the Erosion Prevention permit process. The City of Eugene shall not issue any of these other permits:

5.1 Unless and until the City has approved and issued a required Erosion Prevention permit;

5.2 Until the City has determined an Erosion Prevention permit is not required;  
or

5.3 If the property owner or applicant is in violation of an Erosion Prevention permit, or any conditions contained therein.

6. Completeness Check. At the time of application submittal, the City shall conduct a completeness check to determine if the application meets all of the submittal requirements. The City shall not accept the application until all requirements have been met. After the application has been accepted, the City may find after a more thorough review that the applicant submitted inadequate or inaccurate information. In that case, the City may require that certain additional information be submitted. A complete application submittal includes:

6.1 Completed and signed application form;

6.2 Fee;

6.3 Construction Site Management Plan prepared by a certified professional, except as provided in subsections 7.3 and 7.4 of these rules.

7. Construction Site Management Plan.

7.1 Individual and Umbrella Permits. A Construction Site Management Plan shall be required in order to identify potential water quality impacts associated with the proposed construction activity and ensure that appropriate and effective techniques and methods are utilized to prevent and control erosion and sedimentation and other pollutants associated with construction activities. The Construction Site Management Plan (Plan) shall be prepared by a Certified Professional. The Plan shall outline the techniques and methods to be used to achieve the required outcomes, describe conditions before and after development, and the proposed methods to prevent and control water quality impacts during and after construction. The Certified Professional, as part of the Plan, shall certify that in his or her professional opinion, implementation of the Plan will ensure compliance with R-6.645-D.1. The City shall review the Plan prior to issuance of an erosion prevention permit and may monitor the development thereafter for continued compliance.

7.2 Contents. At a minimum, the Construction Site Management Plan shall consider and address the follow factors as appropriate:

7.2.1 A site location and vicinity map;

7.2.2 A site development drawing at a standardized engineering or architectural scale, such as 1"= 40', containing the following site conditions: (a) soil type; (b) on-site elevations and/or topographic information adequate to determine drainage patterns and slopes; (c) hydrology, including surface drainages and wetlands; (d) existing vegetation; and (e) natural resource sites and designated buffer areas.

7.2.3 Plans that show site control measures for preventing erosion and sedimentation into the City's stormwater system and related natural resources, including supporting calculations, such as hydraulics and soil loss equation, and assumptions for the 5-year or 10-year storm event as required by City design policy;

7.2.4 Off-site and on-site access routes for construction and maintenance vehicles;

7.2.5 Borrow and waste disposal areas;

7.2.6 Debris and garbage disposal areas;

7.2.7 Vegetation specifications for temporary and permanent stabilization;

7.2.8 Construction schedule, including the implementation of construction site management practices and expected time period of land disturbing activities;

7.2.9 Manner of storage and disposal of materials (e.g., sand, lumber, insulation, paints, thinners, fertilizers, fuels);

7.2.10 Temporary and permanent storm drainage facilities;

7.2.11 Measures to be undertaken to minimize the extent of exposed soils;

7.2.12 Areas where construction vehicles' wheels will be washed; and

7.2.13 Methods and places for concrete-wash disposal;

7.2.14 Disturbed areas and other areas that are physically protected from potential disturbance, such as fencing.

7.3 Template. If the proposed construction is for one single family dwelling, or one duplex dwelling, the property owner need not utilize the services of a certified professional in the preparation of the Plan. A template plan may be submitted to satisfy requirements for the single family dwelling and duplex construction activities.

7.4 Annual Permit. If the proposed construction activity qualifies for an annual permit, preparation of a construction site management plan is not necessary. In lieu of a construction site management plan, the applicant shall submit the following information as part of the application submittal:

7.4.1 Description of the scope of work and types of construction activities to be performed; and

7.4.2 Description of the erosion, sedimentation, and construction site management practices to be employed during construction activities for meeting the requirements of the Eugene Code, 1971 and these Rules.

7.5 Availability. The approved Construction Site Management Plan and Template shall be kept at the construction site and be available during on-site inspections.

8. Review Criteria and Approval. The City shall review the Erosion Prevention Permit application, including the Construction Site Management Plan, and such other documents as may be submitted, and approve, approve with special conditions, or deny the permit application. If the City finds that the construction related activities will result in visible or measurable erosion, or

will otherwise violate the conditions specified in R-6.645-D.1., then the City shall deny the permit, or approve the permit with special conditions. In the absence of such an affirmative finding, the City shall approve the permit, with or without special conditions.

9. **Conditions.** Every Erosion Prevention Permit shall include as conditions the outcomes set forth in R-6.645-D of these rules.

10. **Permit Duration.** An approved erosion prevention permit shall remain in effect for the full period of construction activity. The permit may be extended for a period of up to, but not to exceed, two years after completion of the construction activities if the City Manager determines the extension is necessary to ensure the construction activity has stabilized in accordance with the outcomes listed in these rules.

11. **Appeal.** An applicant may appeal (a) the denial of a permit, (b) any conditions imposed on a permit, or (c) the designation of a site as a sensitive area within the time and in the manner prescribed in section 2.021 of the Eugene Code, 1971.

#### **R-6.645-G Construction Site Control Measures and Design Standards.**

1. **Construction Site Practices.** In addition to compliance with specific requirements contained in an approved permit, all permittees shall establish and implement construction site management practices that will prevent toxic materials and other debris from entering the City's storm drainage and waterway systems. The following construction site practices are prohibited and constitute a violation of these rules:

- 1.1 Improper storage of chemicals (pesticides, fertilizers, fuels, paints, thinners);
- 1.2 Improper disposal of construction waste material, garbage, rubbish, and sanitary waste, plaster, dry-wall, grout, gypsum;
- 1.3 Failure to immediately clean up spills of toxic materials;
- 1.4 Washing excess concrete material into a street, catch basin, or other public facility or a related natural resource;
- 1.5 Leaving stockpiles uncovered; or
- 1.6 Allowing construction vehicles to track or spill soil or debris into or onto a street or public right of way.

2. **Prevention Measures and Design Standards.** The City's Erosion Prevention and Construction Site Management Practices Manual may be utilized to obtain ideas as to how to achieve the outcomes mandated by R-6.645-D.1. These ideas include:

- 2.1 Keep vehicles on gravel or paved surfaces.
- 2.2 Surface stabilization measures (seeding, sodding, mulching, riprap);
- 2.3 Runoff control measures (temporary and permanent diversions, grassed-

swales, slope drains, riprap channels);

- 2.4 Outlet protection measures (energy spreaders/dissipaters);
- 2.5 Inlet protection measures (fabric-sod type protectors);
- 2.6 Sediment trap measures (basins, fences, rock dams);
- 2.7 Stream protection measures (temporary and permanent stream crossings, buffers, vegetated and structural stabilizers);
- 2.8 Construction timing and sequence;
- 2.9 Areas not to be disturbed; and
- 2.10 Other measures such as: subsurface drains, check dams, dust control, practices and procedures of operations.

The Manual is a guidance document only. It is not adopted as part of these rules. It is not necessary to utilize any of the specific concepts contained in the Manual, nor is the use of one or more of those ideas a guarantee that a permit will be issued. Each site and the proposed construction related activities need to be examined to determine what measures are required for that specific site.

#### **R-6.645-H Enforcement.**

1. **Intervention.** The primary focus of sections 6.625 to 6.645 of the Eugene Code, 1971 and these Rules is to achieve compliance with the outcomes specified in R-6.645-D and prevent erosion and control stormwater impact, 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 City 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. **Stop Work Order.** Whenever any construction related activity is being done contrary to and in violation of Sections 6.625 to 6.645 of the Eugene Code, 1971, these rules, or an erosion prevention permit, the enforcement officer may order the construction related activity stopped by notice in writing, posted on the premises, or served on the permittee. The permittee shall forthwith stop such work until authorized by the enforcement officer to proceed.

3 **Citation for Violation.** Upon a determination that a person is violating Sections 6.625 to 6.645 of the Eugene Code, 1971 or these rules, a citation may be issued to the permittee to appear in Municipal Court.

4 **Administrative Compliance Order.** The City may issue an Administrative Compliance Order for any violation. The Order shall be in writing, specify the violation(s) and require compliance measures. The order also may include a Notice of Imposition of Administrative Civil Penalty Assessment for the violation.

5 **Notice of Imposition of Administrative Civil Penalty.** If a person fails to comply

with applicable provisions of the Eugene Code, 1971, these rules, an erosion prevention permit, conditions imposed thereon, or an administrative compliance order, the enforcement officer may issue to the person a Notice of Imposition of an administrative civil penalty pursuant to the provisions of Section 2.018 of the Eugene Code, 1971.

6. **Service.** All notices/orders shall be served by personal service or sent by certified mail and first class mail. Any notice/order served by mail shall be deemed received for purposes of any time computations hereunder, three days after the date mailed, if to an address within this state, and seven days after the date mailed, if to an address without this state.

7. **Penalties Not Exclusive.** Any administrative civil penalty imposed pursuant to this section shall be in addition to, and not in lieu of, any other penalty authorized by Section 6.992 of the Eugene Code, 1971, or any other action authorized by law.

8. **Settlement of Administrative Civil Penalty Assessment.** Upon receipt of Notice of Administrative Civil Penalty Assessment, the violator may request a conference with the City Manager or designee. The City Manager or designee may compromise or settle any unpaid administrative civil penalty assessment where authorized under Section 2.582 of the Eugene Code, 1971. A request under this paragraph shall not act as a stay, or otherwise affect the filing or processing of an appeal under R-6.645-I.

#### R-6.645-I. Appeals.

1. **Stop Work Order, Administrative Civil Penalty, Administrative Compliance Order.** Any person to whom a Stop Work Order, Notice of Imposition of an Administrative Civil Penalty or Administrative Compliance Order is issued pursuant to these rules may appeal that determination to the City Manager. A Stop Work Order or Administrative Compliance Order shall be effective upon issuance, and shall continue in effect during the pendency of any appeal. The notice of appeal must be in writing, and filed with the City Manager within 15 days from the date of the Notice being appealed. The appeal shall state the name and address of the appellant, the nature of the determination being appealed, the reason the determination is incorrect, and what the correct determination of the appeal should be. Failure to file such a statement within the time or in the manner required waives the appellant's objections, and the appeal shall be dismissed. Unless the appellant and City agree to a longer time period, the appeal shall be heard by a hearings official within 30 days of receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and place of the hearing to the appellant. The hearings official shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence deemed appropriate. The appellant may present testimony and oral argument at the hearing either personally or by counsel. The hearings official shall issue a written decision within ten days of the date of the hearing. The decision of the hearings official is final, and may include a determination that the appeal fee be refunded to the appellant upon a finding by the hearings official that the appeal was not frivolous.



2. Appeal Fees. Appeals filed under this section shall be accompanied by an appeal fee in an amount established by the City Manager pursuant to Section 2.020 of the Eugene Code, 1971.

The foregoing Rule is adopted this 22<sup>nd</sup> day of January, 1997, and shall become effective February 1, 1997.

**ADMINISTRATIVE ORDER NO. 58-96-27-F**  
of the  
**CITY MANAGER PRO TEM**

**ESTABLISHING FEES FOR PROCESSING  
EROSION PREVENTION AND CONSTRUCTION  
SITE MANAGEMENT PRACTICES PERMITS**

The City Manager Pro Tem of the City of Eugene finds that:

A. Pursuant to the authority contained in Sections 2.019 and 6.635 of the Eugene Code, 1971, on December 5, 1996 I adopted Administrative Order No. 58-96-27 proposing the adoption of fees for processing erosion prevention and construction site management practices permits. The fee structure provides a basis for determining the amount of cost for an erosion prevention permit for a variety of land use conditions.

B. Notice of the proposed fees was provided to the Mayor and City Councilors, published in the Register Guard, a newspaper of general circulation within the City, and posted at two locations at City Hall on Dec 10, 1996. The Notice was also provided to persons who had requested notice, and made available for inspection by interested persons at the City's Public Works Department, Engineering Division, 858 Pearl Street, Eugene, Oregon 97401 during normal business hours (9:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays), and made available to the general public through Eugene's Home Page on the Internet.

C. The Notice provided that written comments would be received thereon until midnight, January 7, 1997, more than 15 days from the first date of publication and posting. Written comments were received from William Slattery and Robert L. Breeden to which I make the following findings:

**Comment 1:** How will the fees be used?

**Finding:** The fees will be used to pay staff costs associated with the review of erosion permit applications, inspection of erosion-related work, and enforcement activities. Two erosion specialists will be hired to implement the program. The fees will cover costs for these resources.

**Comment 2:** Is there a plan check fee also?

**Finding:** The fees that were sent out for public comment were listed as permit fees but in reality they are plan check permit and inspection fees combined. The title of the fees will be changed to reflect this reality.

**Comment 3:** Is there a fee to determine if a lot is in a sensitive area?

**Finding:** Determination of sensitive area will be done at the Permit and Information Center prior to the submittal of a permit application. Therefore, a fee is not required for this determination. Once the determination is made and finalized, a formal appeal of this determination requires a fee.

**Comment 4:** Appeal fees are too high.

**Finding:** The amount of the appeal fee, \$175, includes an estimate of time and materials to hire a hearings official. This amount represents a straight forward appeal issue. Therefore, there is no need to adjust the rule at this time.

D. In addition to the specific findings set forth above, I find that the fees set forth in Exhibit A hereto are consistent with applicable policies and directives of the City Council, including policies developed during the Eugene Decisions process; are comparable to the fees charged for similar services; and are necessary to comply with the Council's directive to recover the City's costs and expenses in administering such programs from the beneficiaries of the services.

Based on the above findings, which are hereby adopted, I order that:

The fees set forth in the Erosion Prevention and Construction Site Management Practices Permits Fee Schedule attached as Exhibit A hereto are hereby established as the fees to be charged for the services set forth therein, effective February 1, 1997.

Dated this 20<sup>th</sup> day of January, 1997.

**EROSION PREVENTION AND CONSTRUCTION  
SITE MANAGEMENT PRACTICES PERMITS  
FEE SCHEDULE  
(Effective February 1, 1997)**

**Plan Check/Inspection Fee:**

Single & Two-Family Residential (new)	\$100.00
Single & Two-Family Residential (addition)	\$ 75.00
Single & Two-Family Residential (utility)	\$ 50.00
Multiple Family, Commercial, Subdivisions:	
(a) 1 acre or less of disturbed area	\$150.00
(b) > 1 acre of disturbed area	\$150 + \$25/acre or increment of acre over 1 acre

**Annual Permit Plan Check/Inspection Fee**

\$1,500  
or \$40/hr  
(whichever  
is less)

**Appeal:**

Permit denial	\$175.00
Permit conditions	\$175.00
Sensitive area designation	\$175.00
Stop work order, administrative civil penalty, administrative compliance order	\$175.00

**Reinspection:**

\$40.00/hr  
(min. 1 hr)