

CHAPTER 75
EROSION PREVENTION AND SEDIMENT CONTROL

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75.010. General Policy and Intent; Scope.

(a) City policy requires that temporary and permanent measures be taken for all construction and land development projects and ground disturbing activities to prevent the adverse effects of site erosion and sediment runoff. The intent behind the required measures is to minimize the amount of sediment and other pollutants reaching waterways, wetlands, and the public storm drainage system, and thus protect the environment during the life of the ground disturbing activities and associated project. The provisions of this Chapter shall apply to all parcels and all land within the city regardless of whether that property is involved in a construction or development activity.

(b) Sections 75.030 through 75.140 specify the use of erosion prevention techniques and sediment control measures. In order to better meet the water quality requirements for Salem's urban watersheds and the Willamette River, erosion prevention is emphasized over sediment control. These techniques are especially important on larger construction sites immediately before and during the rainy portion of the year. Erosion prevention techniques are designed to prevent soil particles from being dislodged by the force of water and wind. These measures include such things as the timing of construction work, limiting the disturbance of ground cover, and protective matting. Sediment control measures are designed to capture soil particles after they have been dislodged and are used to retain the soil particles on a site. These measures include such things as silt fences and settling basins. Both erosion prevention and sediment control have appropriate uses and both will be used to achieve the goal of improving stream water quality in Salem.

(c) The requirements of this Chapter are minimum requirements. Compliance with this Chapter does not in any way imply, either directly or indirectly, compliance with any other requirement of city Code. Nothing in this Chapter shall relieve any person from the obligation to comply with the regulations or permits of any other federal, state, or local authority. Where the provisions of this Chapter are more restrictive than those set forth in other regulations under this Code or ordinances, the provisions of this Chapter shall control. (Ord No. 39-2001)

75.020. Definitions.

(a) Words and phrases defined in SRC Chapter 111 shall have the meanings set forth therein, unless another definition is set forth in this section.

(b) Except where the context otherwise specifically requires, as used in this Chapter:

(1) Applicant means the owner of real property or the owner's authorized agent, and any person who would be required to obtain an Erosion Control Permit, but neglects or otherwise fails to do so.

(2) Approved means having received official confirmation by the Director.

(3) Authorized agent means the developer, contractor, engineer, builder, personal representative, or anyone designated by the owner to have control or supervision of a site involving a ground disturbing activity.

(4) Certified professional means any person licensed as a civil engineer, architect, landscape architect, or landscape designer who is qualified, in the judgment of the director, to design erosion prevention and sediment control plans or facilities; or any person certified by the State of Oregon or the International Erosion Control Association as a Certified Professional in Erosion and Sediment Control; or any person certified by other appropriate national association and who in the judgment of the director has the knowledge, skills, and abilities to design erosion prevention and sediment control facilities.

(5) Clearing means any activity that removes vegetative cover of land.

(6) Director means the Director of Public Works of the City or the Director's designee.

(7) Drainage course means any land surface, ditch, waterway, or other feature which serves as a course for the transmission of surface water and stormwater.

(8) Erosion means the wearing away of the ground surface, or the movement, detachment or dislocation and transport of sediment including soil particles by the action of water or wind.

(9) Erosion prevention means a measure that prevents or reduces the creation of sediment.

(10) Erosion control permit means a permit issued by the city for the construction of facilities for the prevention or control of erosion, runoff, or sediment.

(11) EPSC Plan or Erosion Prevention and Sediment Control Plan means a set of plans indicating the specific measures and sequencing or phasing to be used to control erosion and sediment on a development or construction site during and after construction or other ground disturbing activities.

(12) Grading means excavation or fill of material, including the resulting conditions, spoils, or by-products.

(13) Ground disturbing activities means any activity that exposes soil through the use of mechanical equipment, including, but not limited to, grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent (i.e., gravel mining, farming, gardening, sports fields, etc.); or temporary or short-term duration such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.

(14) Perimeter control means a barrier that prevents sediment from leaving a site by filtering runoff or diverting it to a sediment trap or basin.

(15) Sediment means finely divided loose material that can be suspended and transported in water or air and may originate from disturbed soil, landscaping, and construction activities or materials.

(16) Sediment control means a measure that prevents or reduces the amount of eroded material leaving the site.

(17) Site means a parcel of land or contiguous lots or parcels of land where ground disturbing activities are performed as a single unified operation.

(18) Slope means an inclined earth surface, the inclination of which is expressed as the ratio

of horizontal distance to vertical distance. Slopes are expressed as a percentage and measured across a horizontal rise and run calculation within any horizontal twenty-five foot distance.

(19) Stabilization means the use of practices that prevent, or reduce to the maximum extent practicable, exposed soil from eroding.

(20) Storm drainage system means all conduits, ditches, gutters, catch basins, or any other facilities convenient or necessary to carry away and dispose of stormwater and subsurface drainage, surface water, or unpolluted surplus water.

(21) Technical Guidance Handbook means the “Erosion Prevention and Sediment Control (EPSC) Plans Technical Guidance Handbook.” The Technical Guidance Handbook shall be the reference for erosion prevention and sediment control design standards.

(22) Visible and measurable erosion or sediment means

(A) Deposits or tracking of mud, dirt, sediment, or similar material which exceeds one-half cubic foot in volume, on public or private streets, adjacent property, or into the storm drainage system or a drainage course, either by direct deposit, dropping, discharge, or as a result of the action of erosion; or

(B) 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 before leaving the site; or

(C) Earth slides, mud flows, earth sloughing, or other earth movement in excess of one-half cubic foot in volume, which leaves the site.

(23) Waterway means any river, stream, or creek within the city, designated by the Director.

(24) Wetland means any area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (Ord No. 39-2001; Ord No. 26-06; Ord No. 31-13)

75.030. Erosion Prohibited. No person shall cause or suffer visible and measurable erosion or sediment which enters or is likely to enter the public storm drainage system, drainage courses, or wetlands. (Ord No. 39-2001)

75.040. Responsibility for Violations.

(a) The applicant shall be responsible for compliance with all provisions of this Chapter and any Erosion Control Permit issued hereunder, whether the applicant be the owner or the authorized agent of the owner.

(b) Any person who acts as the agent of, or otherwise assists, any person who engages in an activity which would be a violation of this Chapter or any Erosion Control Permit issued hereunder, shall likewise be deemed to have engaged in the violation. (Ord No. 39-2001; Ord No. 26-06)

75.050. Erosion Control Permits.

(a) Except as provided in subsection (b) of this section, no person shall conduct ground disturbing activities that cause or are likely to cause a temporary or permanent increase in the rate of soil erosion from a site without first obtaining an Erosion Control Permit from the Director.

(b) Erosion Control Permits are not required for the following:

(1) Home gardening and landscaping activities, unless the ground disturbing activity meets either of the following criteria:

(A) The activity takes place within 50 feet of a waterway, and the work involves the disturbance of more than 1,000 square feet of land surface at one time; or

(B) The slope of the land exceeds 25 percent.

- (2) Ground disturbing activities involving less than 25 cubic yards of material or 1,000 square feet of land surface at one time.
 - (3) Interior improvements to an existing structure.
 - (4) Activity for which there is no physical disturbance to the surface of the land.
 - (5) Ground disturbing activities conducted under a 1200-C or 1200-CA General Permit issued by the Oregon Department of Environmental Quality in accordance with the Phase I and Phase II Stormwater Regulations adopted by the Environmental Protection Agency.
 - (6) Activities within the city which constitute a “farm use” or “accepted farming practices” as those terms are defined or used in ORS Chapter 215.
 - (7) Mining activities conducted under permits issued by the Oregon Department of Geology and Mineral Industries.
 - (8) Routine maintenance of gravel roads, road shoulders, paths, parking lots, and storage yards.
 - (9) Routine maintenance of sports fields or playgrounds surrounded by vegetative ground cover or permanently installed curbing.
- (c) An exception from the Erosion Control Permit requirement does not exempt the applicant from the performance responsibilities of SRC 75.030, SRC 75.090 and SRC 75.140, except to the extent allowed under local, state, or federal permits issued for a specific site or purpose.
- (d) Applicants for construction activity within the city subject to the 1200-C or 1200-CA General Permit requirements must obtain the 1200-C or 1200-CA General Permit directly from the Oregon Department of Environmental Quality and provide evidence of such to the Director. Such permit will satisfy the requirement for an erosion prevention and sediment control permit under this Chapter. However, the performance standards set forth by this Chapter must still be met, as well as any or more restrictive requirements specified in the 1200-C or 1200-CA General Permit. (Ord No. 39-2001; Ord No. 26-06; Ord No. 34-13)

75.060. Plan Requirements.

- (a) An application for an Erosion Control Permit shall include all information necessary for the determination of whether the permit should be issued. Such information includes, but is not limited to, an EPSC Plan that contains methods and interim facilities to be constructed, used, operated, and maintained during ground disturbing activities to prevent and to control erosion. If the Director finds there is insufficient information contained in the application to determine whether the Erosion Control Permit should be issued, the Director may require the submission of such additional information deemed necessary by the Director to make such determination. An EPSC Plan shall be prepared using the techniques and methods contained and prescribed in the Technical Guidance Handbook. Approved alternate erosion prevention and sediment control techniques may be used if designed by a Certified Professional and approved by the Director.
- (b) A single EPSC Plan may be submitted for multiple contiguous residential building lots or parcels or multiple building lots or parcels in the same subdivision or partition.
- (c) EPSC Plans for construction projects disturbing 10,000 square feet or more of land surface shall require the stamp or signature of a Certified Professional. (Ord No. 39-2001; Ord No. 26-06; Ord No. 34-13)

75.070. Maintenance. The applicant shall maintain the facilities and techniques that are contained in the city-approved EPSC Plan to ensure continued effectiveness during any ground disturbing activity. If the facilities and techniques approved in an EPSC Plan are not effective or sufficient, the applicant shall take immediate action to stop sediment from leaving the site. If the erosion control facilities are not functioning properly, as determined by a city site inspection, the applicant shall immediately implement additional facilities and techniques as approved by the city inspector. In cases where active erosion is occurring, the director may require the applicant to install additional interim control measures prior to submittal, or

approval, of a revised EPSC Plan. (Ord No. 39-2001)

75.080. Inspection. The director may require erosion prevention and sediment control measures to be inspected and approved prior to the start of any ground disturbing activities including preliminary grading work. The Director may require inspections at other times as deemed necessary or as specified in the Erosion Control Permit. For individual single family residential and duplex construction, or manufactured home placement on individual lots or parcels or in manufactured home parks, erosion prevention and sediment control measures shall be properly installed either before or concurrent with the initial ground disturbing activity. (Ord No. 39-2001; Ord No. 26-06)

75.090. Deposits on Public Streets and Into Storm Drainage System Prohibited.

(a) Except as provided in subsection (b) of this section, no person shall cause or suffer visible and measurable erosion or sediment, or otherwise drag, drop, track, or otherwise place or deposit, or permit to be deposited construction waste, pavement saw cutting or boring waste, or other such debris, upon a public or private street or into any part of the public storm drainage and surface water system, or any part of a private storm drainage and surface water system which drains or connects to the public storm drainage and surface water system. Any visible and measurable erosion or sediment shall be immediately abated or removed by the person using hand labor or approved mechanical means. No person shall wash or flush any visible and measurable material into any part of the storm drainage and surface water system without erosion control measures installed in advance to the satisfaction of the director.

(b) While complying with the requirements of SRC 76.010, the applicant may temporarily stockpile construction materials, including clean gravel, sand, rock, and landscaping materials, within the public right-of-way for up to five working days or as otherwise approved by the director as necessary for the orderly construction of site improvements. Such temporary stockpiles shall be adequately protected by the measures set forth in SRC 75.120(c) and (d) so as to meet the performance standards set forth in SRC 75.030 and subsection (a) of this section, and the street shall be broom cleaned within one day of the removal of the materials. (Ord No. 39-2001; Ord No. 26-06)

75.100 Fees. To defray the costs of plan review, administration, field inspection, and enforcement to carry out the provisions of this Chapter, the applicant for an erosion control permit shall pay such fees as may be adopted by resolution of the council. (Ord No. 39-2001)

75.120 Construction Site Controls.

(a) The applicant shall provide a gravel construction entrance at a location approved by the director. If there is more than one vehicle access point, the applicant shall provide a gravel construction entrance at each access point. Under no circumstance shall vehicles or equipment enter a property adjacent to a waterway or wetland in a location where it would not be possible to avoid contamination or the deposit of mud, dirt, or debris therein.

(b) The applicant shall properly maintain erosion prevention and sediment control facilities and techniques until all disturbed soil areas are permanently stabilized by the establishment of landscaping, grass, mulching, or otherwise covered and protected from erosion.

(c) The applicant shall provide a filter system on adjacent and downstream catch basins.

(d) The applicant shall not use plastic sheeting as an erosion control measure, except as provided in the Technical Guidance Handbook. If used, the path of concentrated flow from the plastic must be protected so as to meet the performance standards of this Chapter.

(e) On sites where vegetation and ground cover have been removed from one acre or more of

land, applicant shall re-establish the ground cover by seeding and mulching in accordance with the Technical Guidance Handbook. As an alternative to seeding and mulching, or if ground cover is not established by October 15 of each year, the applicant shall protect the open areas through the winter with straw mulch, erosion blankets, or other approved methods. These requirements may be

imposed by the director on a case-by-case basis on sites smaller than one acre where steep slopes or other prevailing site conditions warrant such measures. (Ord No. 39-2001; Ord No. 26-06)

75.130. Dust Suppression Required. The applicant shall minimize dust to the extent practicable, using appropriate measures such as:

- (a) Sprinkling haul and access roads and other exposed dust producing areas with water,
- (b) Applying approved dust suppressants on haul and access roads,
- (c) Establishing temporary vegetative cover,
- (d) Placing wood chips or other director-approved effective mulches on vehicle and pedestrian use areas,
- (e) Maintaining the proper moisture condition on all fill surfaces, and
- (f) Pre-wetting cut and borrow area surfaces. (Ord No. 39-2001)

75.140. Water Quality Maintenance.

- (a) The applicant shall conduct any approved ground disturbing activities within the banks of any waterway in accordance with the rules and permitting requirements of the U.S. Army Corps of Engineers, Oregon Division of State Lands, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the city.
- (b) No person shall discharge pollutants as defined in SRC Chapter 73 into the environment.
- (c) The applicant shall route all sediment laden water from construction operations through settling basins, filtration facilities, or other treatment facilities in an approved manner to reduce the sediment load prior to being discharged.
- (d) No person shall cause any visible increase in turbidity in any drainage course or waterway except as approved under permits issued under Section 75.050 of this Chapter. (Ord No. 39-2001)

75.150. Fish and Wildlife Habitat Protection. The applicant shall conduct all ground disturbing activities in accordance with the requirements of state and federal regulations respecting fish and wildlife protection. (Ord No. 39-2001)

75.160. Existing Vegetation and Slope Stability. The applicant shall conduct all ground disturbing activities in compliance with SRC Chapter 68 and SRC Chapter 69. (Ord No. 39-2001; Ord No. 31-13)

75.170. Contaminated Soils. In the event ground disturbing activities reveal soils contaminated with suspected hazardous materials or chemicals, the contractor shall immediately stop work, ensure no contaminated material is hauled or tracked from the site, remove the work force from the immediate vicinity of the contaminated area, leaving all machinery and equipment, and secure the area from access by the public until such time as the contractor has been lawfully relieved of that responsibility. The contractor shall notify the city's Environmental Services office and the city's Public Works inspector of the situation upon its discovery. (Ord No. 39-2001)

75.175. Stop Work Orders; Permit Revocation; Civil Penalties; Enforcement.

- (a) Stop Work Orders and Permit Revocation.
 - (1) The Director may suspend work or revoke a Erosion Control Permit upon a finding that:

- (A) The work is not authorized by a valid permit;
 - (B) Inaccurate information was used to obtain the permit;
 - (C) The applicant is not complying with the terms of the permit or the provisions of this Chapter; or
 - (D) The work is, or threatens to become, a hazard to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, waterway, wetlands, fish or wildlife habitat, or a storm water facility; or is otherwise adversely affecting the public health, safety, or welfare.
- (2) The Director shall issue a written notice specifying the nature of the violation or problem which must be remedied prior to resuming other work on the project.
- (3) Persons violating this chapter, or a permit issued hereunder, shall be responsible for restoring damaged areas in conformance with a plan approved by the Director which provides for repair of any environmental or property damage and restoration of the site. The plan shall result in conditions upon the site which, to the greatest extent practical, equal the conditions that would have existed had the violation not occurred, as verified by a Certified Professional.
- (b) **Civil Penalty.** Any person who fails to comply with the requirements of this Chapter, or the terms of a permit issued hereunder, who undertakes an activity regulated by this Chapter without first obtaining a permit, or who fails to comply with a stop work order issued pursuant to this Chapter shall also be subject to a civil penalty, not to exceed \$2,000 per violation. Each day that a permit violation continues shall constitute a separate violation.
- (c) **Civil Penalties Against Agents.** Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty, may likewise be subject to a civil penalty.
- (d) **Prohibition of Further Approvals; Injunctive Relief.**
- (1) The City shall not issue a Notice of Final Completion for property on which a violation of this Chapter has occurred or is occurring, until the violation has been cured by restoration or other means acceptable to the planning administrator and any penalty imposed for the violation is paid.
 - (2) The City may seek injunctive relief against any person who has willfully engaged in a violation of SRC 75.030, SRC 75.050, SRC 75.070, SRC 75.090, SRC 75.120, SRC 75.130, SRC 75.140, SRC 75.150, SRC 75.160, SRC 75.170, and SRC 75.200, such relief to be in effect for a period not to exceed five years.
- (e) **Appeals.** Any person affected by any decision, action, or determination made by the Director, interpreting or implementing the provisions of this Chapter, may file a written request for reconsideration with the Director within ten days of such decision, action, or determination, setting forth in detail the facts supporting the person's request for reconsideration. The Director's final order upon reconsideration may be appealed to the hearings officer by filing a written notice of appeal no later than ten days after notification of the Director's final order. The Director's final order shall remain in effect during such pendency of reconsideration and appeal. (Ord No. 26-06)

75.200. Falsifying Information. It shall be a violation for any person to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Chapter. (Ord No. 39-2001)

75.210. Violations.

- (a) Violation of SRC 75.170, SRC 75.175(a), and SRC 75.200, is a misdemeanor.
- (b) Violation of any other provision of this Chapter is an infraction. (Ord No. 39-2001; Ord No. 26-06)

75.220. Remedies Not Exclusive. The remedies provided in this Chapter are not exclusive. The City may seek any remedy or combination of remedies provided by law for violation of any provision of this Chapter or failure to comply with any order issued under this Chapter. (Ord No. 39-2001)