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191000

Ordinance

Amend Erosion and Sediment Control Regulations Code for clarity, consistency, and ease of administration and adopt the enforcement fee schedule to add escalating fees for non-compliance (amend Code Title 10 and ENB 14.10)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Development Services (“BDS”) promotes safety, livability, and economic vitality through efficient and collaborative application of building and development codes.
2. BDS administers Portland City Code Title 10 – Erosion and Sediment Control Regulations.
3. The City is subject to the terms and conditions of a National Pollutant Discharge Elimination System Municipal Separate Stormwater (“MS4 Permit”) under the federal Clean Water Act. The Bureau of Environmental Services (“BES”) manages the MS4 Permit compliance program on behalf of the City.
4. The MS4 Permit was recently re-issued to the City and requires changes to the City Code provisions and policy documents that govern how the City maintains the water quality standards under the MS4 Permit, including Title 10.
5. BDS administers and enforces the Erosion and Sediment Control Manual, which sets requirements to reduce erosion, sediment discharges, and pollution to protect local waterways and the City’s stormwater system from ground-disturbing activities during construction and implements Title 10.
6. BDS has been working with BES to update Title 10 and the Erosion and Sediment Control Manual and to develop a new Erosion and Sediment Control Enforcement Administrative Rule to comply with the new MS4 Permit.
7. This Ordinance amends Title 10 to remove many of the provisions relating to specific requirements and standards from Title 10. Certain of those provisions will now be located in the Erosion and Sediment Control Manual (attached in draft format for reference as Exhibit C) and others will be found in the Erosion and Sediment Control Enforcement Administrative Rule (attached in draft format for reference as Exhibit

Introduced by

[Commissioner Dan Ryan](#)

Bureau

[Development Services \(BDS\)](#)

Contact

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Development Services

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📞 [503-865-6438](tel:503-865-6438)

📞 [711](#) Oregon Relay Service

Requested Agenda Type

Regular

Changes City Code

Portland Policy Document

- D). These changes help provide clarity, consistency, and ease of administration.
8. The Ordinance amends the Enforcement Fee and Penalty Schedule as shown in Exhibit B to add escalating enforcement fees and fines for non-compliance with Title 10 and the Erosion and Sediment Control Manual.
9. This Ordinance also makes some minor language changes for clarity and consistency.
10. Because the City's regulations must be amended to conform with the new MS4 Permit by November 1, 2022, these Code and fee changes need to take effect 30 days after the passage of this Ordinance by Council, rather than on March 1 or October 1, as allowed by City Council Resolution No. 37577.

NOW, THEREFORE, the Council directs:

- A. Portland City Code Title 10 is amended as set forth in Exhibit A.
- B. The Enforcement Fee and Penalty Schedule is amended as shown in Exhibit B.
- C. This Ordinance is binding City policy.

Documents and Exhibits

 [Memo to Council](#) (171.2 Kb)

 [Exhibit A](#) (61.83 Kb)

 [Exhibit B](#) (183.24 Kb)

 [Exhibit C](#) (3.46 Mb)

 [Exhibit D](#) (96.98 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
September 21, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

This ordinance amends Title 10 to move many of the details relating to specific requirements for erosion and sediment control during ground-disturbing activities that require a building permit to the Erosion and Sediment Control Manual or the Erosion and Sediment Control Enforcement Administrative Rule for clarity, consistency, and ease of administration. The ordinance also adds escalating enforcement fees and fines to the Bureau of Development Services' (BDS) Enforcement Fees and Fines in ENB 14.10.

Financial and Budgetary Impacts

BDS will be adding new escalating fees and fines to its Fee Schedule for Enforcement Fees and Fines that will be administered through the new Enforcement Administrative Rule. The fiscal impact depends on the amount of the fees and fines BDS collects under the new rule, which won't be known until the new rule has been in effect for a time.

Community Impacts and Community Involvement

The proposed ordinance mainly moves existing requirements from Title 10 to the updated Erosion and Sediment Control Manual and new Erosion and Sediment Control Enforcement Administrative Rule. The ordinance will adopt new fees and fines intended to ensure compliance with erosion and sediment control requirements to reduce erosion, sediment discharges and pollution to protect local waterways and the City's stormwater system from ground-disturbing activities associated with development.

The Manual and Enforcement Rule have been available for public comment since the fall of 2021. The Bureau of Development Services and Bureau of Environmental Services have conducted community outreach, including a Lunch and Learn in late 2021, presentations to the Development Review Advisory Committee, and reaching out to local tribes for input.

Agenda Items

765 Regular Agenda in [September 14, 2022 Council Agenda](#)

Passed to second reading

Passed to second reading September 21, 2022 at 9:30 a.m.

787 Regular Agenda in [September 21, 2022 Council Agenda](#)

Passed

Commissioner Jo Ann Hardesty Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Absent