



**City of Portland, Oregon**  
**Bureau of Development Services**  
**Office of the Director**  
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner  
Rebecca Esau, Director  
Phone: (503) 823-7300  
Fax: (503) 823-6983  
TTY: (503) 823-6868  
[www.portland.gov/bds](http://www.portland.gov/bds)

September 14, 2022

**To:** Mayor Wheeler  
Commissioner Hardesty  
Commissioner Mapps  
Commissioner Rubio  
Commissioner Ryan

**From:** Rebecca Esau, Director  
Bureau of Development Services

**Regarding: Proposed Ordinance**

**I. RECOMMENDATION**

Amend Erosion and Sediment Control Regulations Code to Move Specific Requirements and Standards to Administrative Rules and Adopt Enforcement Fees and Penalty Schedule Permanent Rule to Add Escalating Fees for Non-Compliance (Amend Code Title 10 and ENB 14.10)

**II. BACKGROUND**

The Bureau of Development Services (BDS) regulates erosion and sediment control for ground-disturbing activities related to construction projects. The purpose of the regulations is to prevent dirt and debris from running off of a construction site and into neighboring properties, streets, drainage systems, and water bodies. The City, through the Bureau of Environmental Services (BES), administers the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Stormwater (MS4) Permit (MS4 Permit) under the federal Clean Water Act. This permit was recently re-issued to the City and requires the City to update City codes and administrative rules that govern how the City maintains the water quality standards under the permit, including Title 10.

**III. SUMMARY OF ORDINANCE**

BDS administers Title 10 (Erosion and Sediment Control Regulations) and the accompanying administrative rule – the Erosion and Sediment Control Manual. BDS has been working with BES to update Title 10 and the Erosion and Sediment Control Manual and develop a new Erosion and Sediment Control Enforcement Administrative Rule to conform with the new MS4 permit and generally clarify standards and language in both. The proposed changes to Title 10 include:

- Moving many of the details relating to specific requirements and standards from Title 10 to the Erosion and Sediment Control Manual or the new accompanying Erosion and Sediment Control Enforcement Administrative Rule for clarity, consistency, and ease of administration;

- Adopt Enforcement Fees and Penalty Schedule Permanent Rule to add escalating fees for non-compliance; and
- Making housekeeping and language clarification amendments.

Because the City's regulations must be amended to conform with the MS4 Permit by November 1, 2022, this Ordinance needs to take effect 30 days after the second reading, rather than on March 1 or October 1, as directed by City Council Resolution No. 37577.

The proposed ordinance includes four exhibits: 1) the proposed amendments to the text of Title 10; 2) Enforcement Fee and Penalty Schedule; 3) a draft of the Erosion and Sediment Control Manual; and 4) a draft of the new Erosion and Sediment Control Manual Enforcement Administrative Rule required under the City's new MS4 permit. The Manual and Enforcement Administrative Rule are currently out for public comment.