

Permitting Process

2.1 Albany Municipal Code, Title 12

Title 12, “Surface Water,” of the Albany Municipal Code (AMC) has been adopted to “provide for the health, safety, and general welfare of the citizens of the City of Albany and to protect and enhance the water quality and natural functions of watercourses and water bodies through the regulation of stormwater discharges; to set forth uniform requirements for direct and indirect contributors to the Municipal Separate Storm Sewer System; and to enable the City of Albany to comply with applicable state and federal laws.”

Chapter 12.40 of Title 12 sets forth the requirements of the City’s Erosion Prevention and Sediment Control Program. Included in that Chapter is a provision for the development, implementation, and maintenance of this manual. In the event that any provision of this manual is in conflict with any section of the AMC, the provisions of the AMC shall govern.

2.2 Permit Required

The City of Albany requires an EPSC permit before commencing land disturbing activities affecting an area of 2,000 square feet or greater, cumulatively.

Permits must be obtained by the owner of the property on which the activity is proposed. As part of the application, the owner must sign a statement of financial responsibility for damages resulting from noncompliance with EPSC requirements.

Except as otherwise exempted within the definitions of Title 12 of the Albany Municipal Code (AMC), all land disturbing activities, whether or not qualifying for permit requirements, shall be undertaken in a manner to prevent or minimize, to the greatest extent practical, soil erosion and the deposition of sediments onto rights-of-way; or introduction of sediments into wetlands, drainage ways, the municipal stormwater system, receiving waters, and/or areas that contain or contribute directly to the Waters of the State.

Approval of an erosion prevention and sediment control plan and permit issuance by the City does not relieve the applicant of his or her responsibility to ensure erosion prevention and sediment control measures are implemented and maintained effectively.

2.2.1 Permit Exemptions

Some land disturbing activities that affect an area greater than two thousand square feet do not require a permit. These include:

- Replacement or re-establishment of an existing lawn on a single lot, not exceeding 10,000 square feet (about a quarter of an acre)
- Agricultural activities. This is defined as “private or commercial activities directly engaged in the production of nursery stock, sod, fruits, vegetables, forages, cover crops, field crops (grain, corn, oats, beans, etc.) timber, and livestock, or other related activities determined by the Director [of the Public Works Department] to conform to this definition; but shall not include construction or other activities for structures associated with agricultural activities.” This definition includes home gardening.

Regardless of whether or not a permit is required, all land disturbing activities must be performed in a manner to prevent or minimize, to the greatest extent practical, soil erosion and the deposition or introduction of sediments upon or into rights-of-way; wetlands, drainage ways, the municipal stormwater system, receiving waters, and/or areas that include or contribute directly to the Waters of the State.

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2.3 EPSC Permit Process

Upon receipt of an application for an EPSC permit, the Director, or his or her designee, will review the submitted application and attached EPSC Plan. Upon preliminary approval of the EPSC plan the Director will schedule an appointment to meet the applicant on site to review the installed BMPs and verify that they match the EPSC plan. The EPSC permit will not be issued until after the initial site review has been conducted and the EPSC plan has been accepted. No land disturbing activities may commence until an EPSC permit has been issued.

2.3.1 Initial Site Review

EPSC BMPs shall be installed at the time of the initial site review. The site review provides the inspector and the applicant the opportunity to review the components of the EPSC Plan, and the accuracy of the plan as it reflects actual site conditions. The inspector may require changes to the EPSC Plan, installed BMPs, or other provisions deemed necessary.

Subsequent to the City's approval of the EPSC Plan and acceptance of the installed BMPs, the EPSC permit will be issued. Land disturbing activities may only commence after an EPSC permit has been issued.

2.3.2 Work Progress Inspections

During all periods of land-disturbing activities an EPSC inspector will visit the work site to monitor the effectiveness of the EPSC plan. The EPSC measures shown on the approved plan are minimum requirements for anticipated site conditions. During construction, it may be necessary for the EPSC plan to be changed or augmented for changing conditions, and to ensure that sediment and sediment-laden water does not leave the site. The inspector will assess the effectiveness of BMPs, ensure they are being properly maintained, and make recommendations for changes or additions as necessary. The inspector will leave a written notice on-site or otherwise contact the responsible person with any required corrections and a re-inspection date. Site inspections may occur on any frequency as determined by the inspector.

2.3.3 Permit Close

After the completion of all land disturbing activities, the owner will make a request to the City to perform a final inspection. Upon verification by the inspector that permanent site stabilization measures have been installed and are functioning effectively, the EPSC permit will be closed. No "in lieu of" work may be substituted for permanent stabilization within any public right-of-way.

2.4 EPSC Permit Requirements

Submittal requirements for EPSC permits for various types of construction projects are presented below. This information will provide the necessary tools to facilitate City approval and reduce overall environmental risks. The City of Albany issues two types of EPSC permits; one for minor land disturbing activities and one for major land disturbing activities. Each activity is described in the following sections.

2.4.1 EPSC Plan Required

Applicants for an EPSC permit shall submit an EPSC Plan as a part of their permit application. For minor land disturbances defined in Section 2.4.2 there are no special qualifications to prepare the plan. For major land disturbing activities defined in Section 2.4.3 a professional design must be submitted by a person licensed in Oregon as a civil engineer, environmental engineer, landscape architect, geologist, or a certified professional in erosion and sediment control (CPESC). EPSC Plan procedures for planning and design are described in Chapter 3 of this manual. Sample EPSC plans and details can be found in Appendix A.

Approval of an EPSC plan by the City of Albany does not relieve the applicant of his or her responsibility to ensure the approved EPSC best management practices are constructed and maintained to prevent erosion and contain sediment and pollutants on the construction site. Additional EPSC best management practices (BMPs) beyond those depicted on an approved EPSC plan may be required based on specific site conditions.

Erosion prevention and sediment control BMPs are required during all land disturbing activity until permanent site ground covers are in place. Certain base measures are required for construction sites at all times of the year. Additional cover or BMPs are required during the wet weather season, as indicated in section 2.5 of this Chapter.

2.4.2 Submittal Requirements for Minor Land Disturbing Activities

An EPSC permit is required for all land-disturbing activities affecting an area of two thousand square feet or greater, cumulatively.

This section provides the submittal requirements to obtain an EPSC permit for minor land disturbances. Sites meeting the following conditions can be characterized as *minor land disturbances*:

1. Individual single-family home or duplex construction on existing lots of record, or manufactured home placement on individual lots or in manufactured home parks, and meet the following conditions:
2. Land disturbing activities that cumulatively affect less than one acre throughout the duration of the project and meet the following conditions:
 - a. Average slopes throughout the disturbed area do not exceed 10 percent, and
 - b. Slopes within the disturbed area do not exceed six feet in height at slopes greater than 3:1 (horizontal:vertical), and
 - c. Concentrated runoff conveyed through the site does not originate from more than one acre off-site (outside of disturbed area), and
 - d. There are no sensitive areas (wetlands, streams, etc.) located on, or adjacent to, the site work.

Table 4-2 designates the minimum erosion control BMPs for minor land disturbances. Each erosion control BMP presented in the table is also described in further detail with design, construction, and maintenance criteria in Chapter 4.

Each application for an EPSC permit for minor land disturbances shall include:

1. A completed City of Albany EPSC permit application form
2. An EPSC Plan, drawn to scale, showing the following (See Chapter 3 for Plan Development):
 - a. Property lines and distances to buildings
 - b. Elevations on the property to indicate the amount of fall and/or grades across the property
 - c. Contour lines showing the existing grades/topography of the site
 - d. Contour lines showing the proposed final grades/topography of the site
 - e. Arrows to indicate existing and final flow patterns of surface water on the property. It is the property owner's responsibility not to alter the flow of surface water in such a manner as to harm neighboring properties.
 - f. Proximity to sensitive areas, as defined in Section 3.3.5
 - g. Location of the 100-year flood plain, if applicable
 - h. Location and size of drainage ways, swales, ditches, etc.
 - i. Location of utilities on the property (sewer, water, etc.)
 - j. All areas of land disturbances, including areas that will be cleared, graded, or excavated
 - k. Location for storage of soils and/or wastes
 - l. Gravel construction entrance

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- m. Placement of erosion prevention and sediment control devices (e.g., sediment fences).
3. A construction schedule showing:
 - a. Expected date by which EPSC measures will be in place
 - b. Expected date land disturbing activities will commence
 - c. Expected date construction will be completed
 - d. Expected date permanent ground cover will be in place

If the facilities and techniques approved in an EPSC Plan are not effective or sufficient, the applicant shall:

- Take immediate action to stop eroded material and/or sediment from leaving the site
- Immediately implement additional facilities and techniques as approved by the Director or his or her designee
- Prepare and submit a revision to the EPSC Plan for City approval

2.4.3 Submittal Requirements for Major Land Disturbing Activities

An EPSC permit is required for all land-disturbing activities affecting an area of two thousand square feet or greater, cumulatively. Major land-disturbing activities include those sites that:

- Affect an area over an acre in size, or
- Contain average slopes throughout the disturbed area that exceed 10 percent, or
- Contain slopes greater than 3:1 which exceed six feet in height, or
- Have concentrated runoff through the disturbed area that comes from over one acre off-site, or
- Contain sensitive areas

Tables 4-3 and 4-4 designate the minimum erosion control BMPs for major land disturbances. Each erosion control BMP presented in the table is also described in further detail with design, construction, and maintenance criteria in Chapter 4.

The applicant shall submit the following information with construction plans for subdivision approval, grading, building, or erosion control permit:

1. Completed Erosion Prevention and Sediment Control Permit Application form.
2. A copy of any applicable NPDES 1200-C permit issued by the Department of Environmental Quality (DEQ). If the site is subject to the requirements of an NPDES 1200-C permit, but it has not been issued, the City will not issue an EPSC permit.
3. Construction schedule with the following information:
 - a. Construction start and completion dates
 - b. Dates when erosion control measures will be in place
 - c. Timing of site clearing and grading, placement of fills, and excavations
 - d. Projected date of removal of erosion control measures (after landscaping is established or after establishment of a healthy grass stand or other approved vegetation)
4. Submit with the construction plans three sets of the EPSC Plan, drawn to scale, showing the following (See Chapter 3 for Plan development processes):
 - a. Vicinity map, property address, and property owner's name and address
 - b. Locations, types, and applicable dimensions of erosion control measures
 - c. Applicable details of erosion control measures showing full dimensions and construction information
 - d. Existing and proposed ground contours, including a minimum of the first 50 feet of abutting property

- e. Arrows to indicate existing and final flow patterns of surface water on the property. **Note: it is a violation of Oregon Drainage Law to alter the flow of surface water to harm neighboring properties.**
- f. Locations and sizes of existing and proposed channels and drainage pipes (labeled as such and with arrows indicating flow direction) on and for 100 feet upstream and downstream of the site
- g. Location of the 100-year flood plain, if applicable
- h. Site entrances/exits (as approved by the City)
- i. Applicable standard erosion control notes from Appendix, with additions or changes as required
- j. Other notes including references to timing of placement and removal of erosion control measures, and erosion measure specifications such that types and quantities of materials necessary for the installation of the erosion control measures are fully detailed
- k. Stamped or signed by a certified professional licensed in Oregon as a civil or environmental engineer, landscape architect, geologist, or certified professional in erosion and sediment control (CPESC)**

If the site erosion control plan includes sediment traps or ponds, the applicant shall also submit calculations used for determining trap or pond sizing and pipe orifice sizing.

Because of particular site conditions or preferences, the applicant may desire in certain cases to use different erosion control measures than those recommended in Tables 4-2 or 4-3. In such cases, the applicant must submit calculations or other supporting information used to determine the sizing and layout of the measures shown on the submitted erosion control plan.

Cumulative land disturbing activity in excess of one acre requires a NPDES 1200-C storm water general permit issued by the DEQ. As indicated above, a copy of the NPDES 1200-C application is required to be submitted to the City of Albany.

If the facilities and techniques approved in an EPSC Plan are not effective or sufficient, the applicant shall:

- Take immediate action to stop eroded materials and/or sediment from leaving the site
- Immediately implement additional facilities and techniques as approved by the Director, or his or her designee
- Prepare and submit a revision to the EPSC Plan for City approval

2.5 Wet Weather Permit Conditions

Wet weather erosion prevention measures will be in effect from October 1st through April 30th.

Rain is the driving factor behind most erosion in this region. Rainfall impact and surface water runoff over exposed soil dislodges sediment particles, suspending them in moving water. Saturated soils are more easily tracked off site by equipment. During the wet weather season, additional Erosion Prevention and Sediment Control Measures are required. These include but are not limited to:

Emphasize prevention

- Seed exposed soils by September 1st to allow time for proper germination and growth
- Maintain clean rock in construction entrances to minimized off-site tracking and expensive cleanup
- Sweep and remove any off-site tracking immediately. *Street flushing is prohibited.*

Cover all exposed soil

- Stabilize all exposed soil by seeding or covering with plastic sheeting or a two-inch layer of mulch, bark, wood chips, sawdust, or straw to minimize erosion potential

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- For slopes greater than 3:1 (33 percent), stabilize exposed soil with erosion blankets or matting
- Use diversion dikes and swales to divert runoff away from exposed soil

2.6 Owner is Permit Holder

EPSC permits must be obtained by the owner of the property. The owner of the property, as permit holder, shall assume responsibility for site conditions, maintenance of the EPSC Plan, and maintenance of BMPs throughout the duration of land-disturbing activities, and until such time as the site has been adequately stabilized and the permit has been closed or transferred. Permits may not be transferred to any person or entity except upon transfer of title for the property.

When the ownership of a property with an active EPSC permit is transferred, the person(s) or entity transferring title for the property is obligated by Albany Municipal Code to inform the person(s) or entity assuming ownership of their obligation to transfer the EPSC permit, or to obtain a new permit.

The most recent EPSC permit for a property will supersede all other EPSC permits that apply to that property. For example, this provision allows for an EPSC permit to be issued for the development of a subdivision. Subsequently, individuals or entities may obtain a permit for a lot within that subdivision while the subdivision's original EPSC permit is still active. The subsequent permit for the individual lot will then nullify the obligations of the subdivision's developer for the affected lot.

2.7 Permit Duration

EPSC permits are valid for a period of one year, or until land disturbing activities are completed, and surface conditions stabilized with permanent measures to prevent future erosion. If land disturbing activities continue beyond the permit's expiration date, or if the land has not been permanently stabilized, the permit holder may make a written request for an extension. Extensions, if approved, shall be for twelve months and will be subject to administrative fees.

2.8 Enforcement

To enforce the requirements of the City's EPSC program, the Public Works Director, or his or her designee may gain compliance by any or all of the means described below.

1. Suspension of access to the municipal stormwater system
2. Issuance of a Warning Notice.
3. Issuance of a Notice of Violation. This provides instructions to the permit holder and persons working under the authority of the EPSC permit, and may include sanctions.
4. Issuance of an Administrative Order. This provides for penalties, fines, and cost recovery.
5. Permit suspension or revocation
6. Stop Work Order
7. Compliance Schedule
8. Abatement
9. Civil Penalties, Administrative Fines, Cost Recovery, and Criminal Penalties.

No action taken by the Public Works Director, or his or her designee, will be contingent on any requirement for any preceding or qualifying action on the part of the Director, or his or her designee.

No enforcement action taken by the Director, or his or her designee, will limit the authority of the Director from taking any other action available.