

ORDINANCE NO. 1116

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING CHAPTER 7 TO DIVISION 9 OF THE UKIAH CITY CODE, ENTITLED: EROSION AND SEDIMENT CONTROL

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

Division 9, Chapter 7 of the Ukiah City Code is hereby added as follows:

DIVISION 9, CHAPTER 7: EROSION AND SEDIMENT CONTROL

§9700: Purpose.

The purpose of this ordinance is to regulate grading on public and private property in order to control erosion and sedimentation, protect water quality, and safeguard health, safety, and the public welfare, and to establish administrative procedures to carry out these regulations.

§9701: Definitions.

For purposes of this chapter, the following terms shall be defined as follows:

“Best Management Practices (BMPs)” are construction site controls used to protect water quality.

“Contractor” means the person or entity performing work subject to this Chapter, including, but not limited to, the property owner or his or her contractor.

“Clearing” is any activity that removes the vegetative surface cover.

“Erosion control” is a measure that prevents erosion.

“Erosion and sediment control plan” or “plan” is a set of plans prepared by, or under the direction of, a licensed professional engineer indicating the specific measures and sequencing to be used to control erosion and sedimentation on a development site during and after construction.

“Freeboard” is the height above the recorded high water mark of a structure.

“Grading” is excavation or fill of material, including the conditions resulting therefrom.

“Grading permit” is a permit issued by the City for grading activities on a specific site.

“Phasing” is clearing a parcel of land in distinct phases, with the stabilization of each phase completed before clearing for the next.

“Sediment control measures” are measures that prevent eroded sediment from leaving a construction site.

“Site” is a parcel of land or a combination of contiguous parcels.

“Start of Construction” is the first land-disturbing activity associated with a development, including, but not limited to, land preparation, such as clearing and grading; installation of streets and walkways; excavation for basements, footings, piers, or foundations; and erection of temporary forms.

§9702: Erosion and sediment control plan.

A. An erosion and sediment control plan prepared by a registered civil engineer, or other professional who is licensed and qualified, delineating measures to appropriately and effectively minimize soil erosion and sedimentation, shall be submitted with a grading permit application and shall be to the satisfaction of the City Engineer. The plan shall include the following information:

1. A description and delineation of the vegetative measures to be taken to minimize erosion and sedimentation;
2. A description and delineation of the temporary and permanent measures to be taken to protect manufactured or disturbed slopes from erosion by mechanical means, such as with mulches, diversion dikes, etc.;
3. The delineation of the drainage control measures to be taken;
4. The extent and manner of the cutting of trees and the clearing of vegetation, the disposal of same, and the measures to be taken for the protection of undisturbed trees and vegetation;
5. The methods to be used for the disposal of excess materials;
6. The methods to be used for the control of dust;
7. A description and delineation of the temporary and permanent measures to be taken to retain sediment on the site;
8. A description of the measures to be taken to maintain the devices shown on the plan during grading operations and construction on the site;
9. The extent of disturbed ground that will exist, what streets will be paved, and what drainage devices will be installed prior to the start of each rainy season;

10. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures;

11. Estimate of amount or the cost of accomplishing the work described and delineated on the plans; and

12. Any other information required by the City Engineer.

B. Exemptions: A plan shall not be required for construction activities which do not require a grading permit. Also, a plan shall not be required for projects that result in the disturbance of less than one acre, unless required by the City Engineer.

C. For all exempt construction activities which involve clearing or grading, property owners are required to apply Best Management Practices as necessary to prevent and control erosion and sedimentation and other impacts associated with such activities. 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.

D. The most recent version of the California Stormwater Quality Association Best Management Practice Handbook, Section 3 (<http://www.cabmphandbooks.com/Construction.asp>) should be used as a guide as to what measures should be taken for any particular set of circumstances.

E. Phasing may be required on all sites disturbing greater than thirty acres, with the size of each phase to be established at plan review and as approved by the City Engineer.

§9703: Design standards for erosion control plans.

A. Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the California Stormwater Quality Association Best Management Practice Handbook, and shall be adequate to prevent transportation of sediment from the site to any offsite area to the satisfaction of the City Engineer.

B. Clearing and grading of natural resources shall not be permitted, except when in compliance with all other chapters of this code. Clearing techniques that retain natural vegetation and drainage patterns, as described in the California Stormwater Quality Association Best Management Practice Handbook, shall be used to the satisfaction of the City Engineer.

C. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

D. The following general site and good housekeeping requirements shall be implemented and are special provisions of any grading permit issued:

1. Sufficient erosion and sediment control supplies shall be available on site during the rainy season (October 15th through April 15th) to protect areas susceptible to erosion during rain events. Contractors shall be prepared year-round to deploy erosion and sediment treatment control practices;
2. Soil disturbance work shall be conducted during dry weather whenever possible;
3. The contractor shall provide adequate materials management, including covering, securing, and segregating potentially toxic materials (asphalt, herbicides, pesticides, fertilizer, grease, oils, fuel, paints, stains, solvents, wood preservatives, etc.), and providing secondary containment for hazardous materials;
4. The contractor shall provide training and equipment to contain spills of oil and other hazardous materials;
5. Designated concrete washout areas shall be established at least fifty feet away from storm drain inlets or drainage facilities and away from the concrete truck access area so that construction traffic will not drive through wash waters. The wash out area shall have a bermed area of sufficient volume to completely contain all liquid and waste concrete material plus a sufficient freeboard for rainwater;
6. Paving operations shall be conducted in a manner that properly disposes of wastes and in which measures to control run on and prevent runoff from areas being paved are implemented;
7. Sanitary facilities of sufficient number and size to accommodate construction crews shall be located away from storm drain inlets and drainage facilities, and anchored to prevent being blown over or tipped by vandals. The facilities shall be maintained in good working order and emptied at regular intervals by a licensed sanitary waste hauler.

E. The following erosion control requirements shall be incorporated in the grading and erosion control plans:

1. Soil stabilization shall be completed within five days of clearing or inactivity in construction;
2. Projects shall be designed to avoid disturbing land in sensitive areas and to preserve existing vegetation wherever possible;
3. Major grading operations shall be scheduled during dry months when practical, and shall allow adequate time before rainfall begins to stabilize the soil with erosion control materials;
4. Seeding and mulching shall be done as soon as grading is complete;

5. If seeding or another vegetative erosion control method is used, the vegetative cover shall become established within a time-frame approved by the City Engineer, or the City Engineer may require the site to be reseeded or a non-vegetative option employed;
6. Special techniques that meet the design criteria outlined in the California Stormwater Quality Association Best Management Practice Handbook on steep slopes or in drainage ways shall be used to ensure stabilization;
7. Soil stockpiles must be stabilized and/or securely covered at the end of each workday;
8. In areas where permanent re-seeding and planting is not established at the close of the construction season, additional control measures shall be used, such as a heavy mulch layer or another method that does not require germination, to ensure soil stabilization at the site;
9. Where runoff needs to be diverted from one area and conveyed to another, earth dikes, drainage swales, slope drains or other suitable practice shall be constructed in accordance with the design criteria set forth in the most recent version of the California Stormwater Quality Association Best Management Practice Handbook;
10. Techniques shall be employed to prevent the blowing of dust or sediment from the site;
11. Techniques that deliver upland runoff past disturbed slopes shall be employed when determined necessary by the City Engineer.

F. The following sediment control requirements shall be incorporated in the erosion control plan:

1. Linear sediment barriers shall be placed below the toe of exposed and erodible slopes, down-slope of exposed soil areas, around soil stockpiles, and at other appropriate locations along the site perimeter;
2. Street sweeping by the contractor shall be conducted on an as needed basis to remove sediment from streets and roadways and to prevent the sediment from entering storm drains or receiving waters. Washing the street, or use of cleaning fluids shall not be allowed;
3. Every storm drain inlet with the potential to receive sediment-laden runoff shall be protected in accordance with the design criteria set forth in the most recent version of the California Stormwater Quality Association Best Management Practice Handbook. Inlet protection shall be inspected and maintained frequently;
4. Sediment basins or sediment traps shall be installed on projects where sediment-laden water may enter the drainage system or watercourses and in association with dikes, temporary channels, and pipes used to convey runoff from disturbed areas;

5. Protection for adjacent properties by the use of a vegetated buffer strip in combination with other perimeter controls or other appropriate method, as described in the most recent version of the California Stormwater Quality Association Best Management Practice Handbook.

G. The following waterway and watercourse protection requirements shall be implemented:

1. A temporary stream crossing installed and approved by the appropriate regulatory agencies if a wet watercourse will be crossed regularly during construction;
2. Stabilization of the watercourse channel before, during, and after any in-channel work;
3. All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the California Stormwater Quality Association Best Management Practice Handbook;
4. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

H. The following construction site access requirements shall be implemented:

1. A temporary access road provided at all sites; and
2. Other measures, such as track-out prevention devices, or as required by the City Engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

§9704: Construction site control measures.

In addition to compliance with specific requirements contained in an approved permit, all holders of a grading permit 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, and thus cause adverse impacts to water quality. The following construction site practices are prohibited and constitute a violation of this ordinance:

- A. Improper storage of chemicals (pesticides, fertilizers, fuels, paints, thinners);
- B. Improper disposal of construction waste material, garbage, rubbish, sanitary waste, plaster, dry-wall, grout and gypsum;
- C. Failure to immediately clean up spills of toxic materials;
- D. Washing concrete truck washout or surplus concrete material into a street, catch basin, or other public facility or a related natural resource;

E. Leaving stockpiles uncovered; and/or

F. Allowing construction vehicles to track or spill soil or debris into or onto a street or public right-of-way.

§9705: Inspection.

A. The City Engineer shall make inspections as hereinafter required, and either shall approve that portion of the work completed or shall notify the holder of the grading permit wherein the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work approved by the Public Works Department shall be maintained at the site during the progress of the work. To obtain inspections, the holder of the grading permit shall notify the City Engineer at least two working days before the following:

1. Start of construction;
2. Installation of sediment and erosion measures;
3. Completion of site clearing;
4. Completion of rough grading;
5. Completion of final grading;
6. Close of the construction season; and
7. Completion of final landscaping.

B. The holder of the grading permit or his or her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the plan and the need for additional control measures. All inspections shall be documented in written form, kept in an on-site file and at the time interval specified in the approved permit.

C. The City Engineer, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the inspection reports filed under subsection B of this section.

§9706: Enforcement.

A. Stop-Work Order; Revocation of Permit. In the event that any person holding a plan pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City Engineer may suspend or revoke the grading permit.

B. Violation and Penalties. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, except that, notwithstanding any other provision of this

chapter, any such violation constituting a misdemeanor under this chapter may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction. Each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be penalized as set forth in Section 4090.21 of this Code. In addition to any other penalty authorized by this section or Section 4090.21, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of bringing the site into compliance with this Chapter.

C. Appeals. Any person to whom a stop work order or revocation, grading permit or penalty is issued pursuant to these rules may appeal that determination to the City Manager. A stop work 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 fifteen 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 appellant believes 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 the City agree to a longer time period, the appeal shall be heard by the City Manager or an impartial and qualified hearing officer appointed by him or her within thirty days of receipt of the notice of appeal. To be considered qualified, the hearing officer shall have substantial education, training and/or experience in construction, grading, engineering, or law. 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 City Manager or a hearing officer 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 hearing officer shall issue a written decision within ten days of the date of the hearing. The decision of the City Manager or hearing officer is final.

SECTION TWO.

1. COMPLIANCE WITH CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), or 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment, In addition, the City Council finds that the ordinance is categorically exempt from CEQA as a Class 7 and Class 8 exemption for actions by regulatory agencies taken to protect natural resources and the environment. (14 CCR §§ 15307 and 15308.)

2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have adopted this Ordinance and any section, subsection, sentence, clause or phrase thereof

irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

Introduced by title only on May 6, 2009, by the following roll call vote:

AYES: Councilmembers Landis, Thomas, Crane, Rodin, and Mayor Baldwin
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on May 20, 2009 by the following roll call vote:

AYES: Councilmembers Landis, Thomas, Crane, Rodin, and Mayor Baldwin\
NOES: None
ABSENT: None
ABSTAIN: None

Philip E. Baldwin, Mayor

ATTEST:

Linda C. Brown, City Clerk