

**CITY OF EUGENE**

**Department of Public Works  
Maintenance Division  
Policies and Procedures**

**Privately Owned and Maintained  
Stormwater Management Mechanical  
Facility Inspection and Enforcement  
Policies and Procedures Manual**

Public Works  
Maintenance Division  
1820 Roosevelt Boulevard  
Eugene, Oregon 97402

**Prepared by:  
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Stormwater Program Manager  
Maintenance**



## Inspection and Enforcement Procedures

### Maintenance Log Submittal/Database

- a. Once the facility has been constructed and approved by PWE, staff sends outreach letter with maintenance instructions and sample maintenance log to owner and schedule on-site meeting upon request. See Exhibit A and B.
- b. Send letter requesting maintenance logs from property owners annually. Letter indicates property owner will have 30 days to submit a completed log. See Exhibit A.
- c. If maintenance log is not submitted within 30 days, a violation notice is sent with an additional 30-day extension. See Exhibit C.
- d. If maintenance log is not submitted within 60 days from first letter, a second violation notice is sent with potential penalties. See Exhibit D.
- e. All logs are reviewed by staff and entered into the city database.

### On-Site Inspection

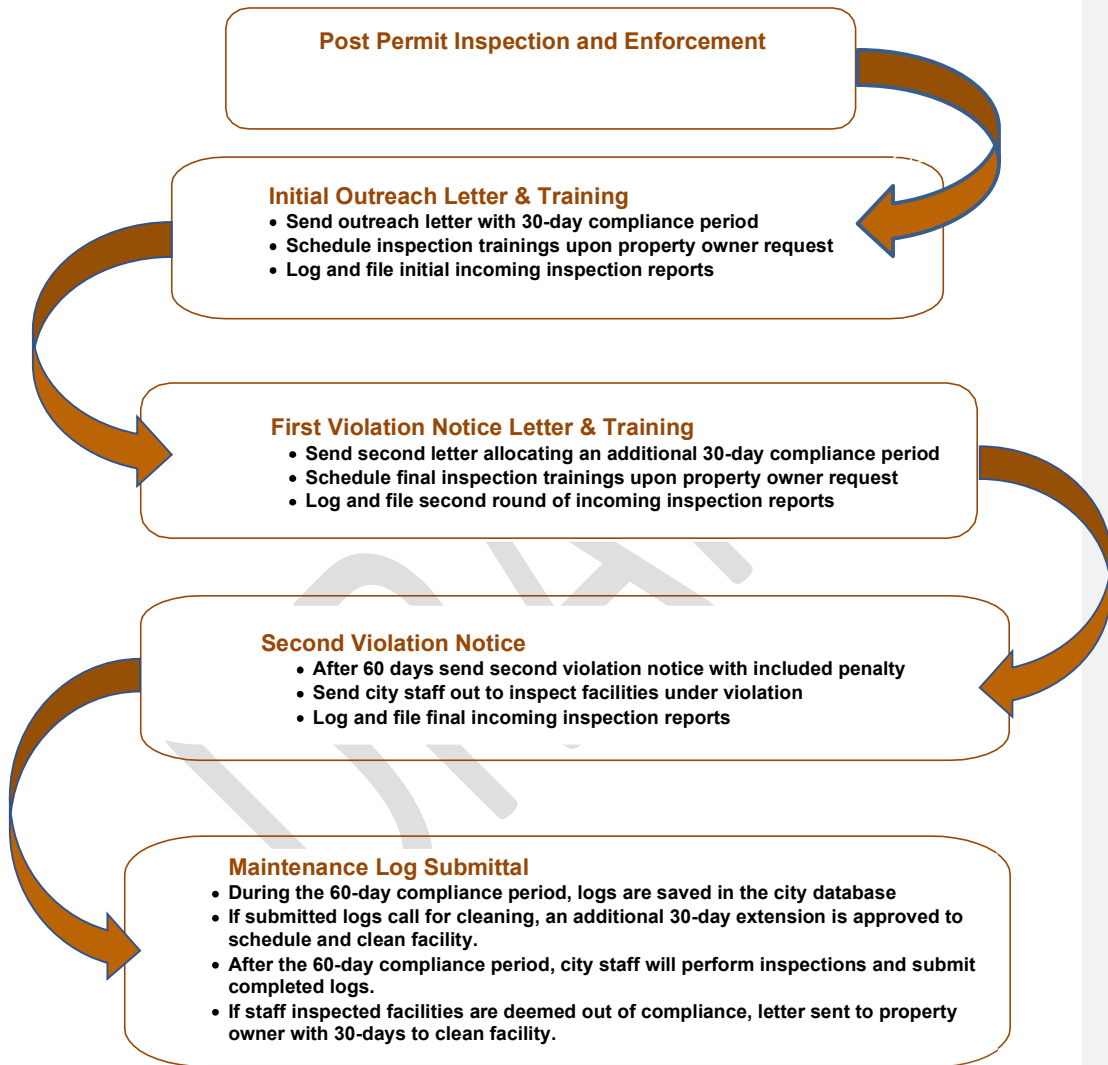
- a. Conduct on-site assessment inspections of existing BMPs on a routine schedule based on 10% of the total private facilities per year. This is a random generated assessment.
- b. If violations are identified during assessment inspections, send letter to the responsible party indicating following issues/violations are noted. You hereby have 30 days to correct.
- c. Re-inspect the facility after 30 days or upon notification from the responsible party that the problem has been corrected. Depending on findings during re-inspection send a notice of Code violation and assessment of civil penalties. Process then follows the normal enforcement procedure. The responsible party can appeal.
- d. If the City gets a public citizen complaint about a BMP or notation by other City staff, inspect for a nuisance and either:
  1. Note that there was no nuisance (may be just a maintenance issue, use judgment)
  2. If violations are identified, send letter to the responsible party indicating following issues/violations are noted. You hereby have 30 days to correct.
  3. Find that there was an immediate threat to public health, safety, or the environment and perform a summary abatement.
  4. Re-inspect the facility after 30 days or upon notification from the responsible party that the problem has been corrected.

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**Inspection and Enforcement Process Flow Chart**



## **Policy**

### **STORMWATER MANAGEMENT FACILITIES**

Stormwater management facilities constructed to comply with the requirements of the STORMWATER MANAGEMENT MANUAL must be properly operated and maintained for the life of the facility. The property owner is responsible for all aspects of facility maintenance unless specified otherwise in an Operations and Maintenance Agreement (O&M Agreement) that is approved by the City, signed by all affected parties, and recorded against all affected properties.

City staff has the right and responsibility to inspect private facilities to assure they are being properly operated and maintained. It is the intent of the City to use education and technical assistance to ensure the proper operation and maintenance of private facilities.

#### **Purpose**

**(1) Purpose.** These rules implement **Section 6.615** of the Eugene Code, 1971, which were adopted to ensure that stormwater management facilities are designed and constructed in accordance with the Stormwater Management Manual adopted by administrative order of the City Manager; are operated and maintained in a manner that protects life and property from flood and drainage hazards, protects water quality, and protects the waterways in the headwaters area from the erosive effects of runoff.

#### **Definitions**

In addition to the definitions contained in Sections 6.615 of the Eugene Code, 1971, as used in these rules, the following words and phrases mean:

**City stormwater system:** Those stormwater facilities located on city-owned property, city right-of-way, city easements and any stormwater facility the city is contractually or legally obligated to operate and maintain, including but not limited to:

- a) An open drainage way, headwater stream, creek, wetland, spring, or pond, including those not maintained by the city which drains onto city-owned property or into city maintained facilities;
- b) A pipe or sewer and its related appurtenances that carry stormwater and have been designed and constructed expressly for use by the general public and accepted by the city;
- c) Streets, curbs and gutters and other surfaces in the public way which are designed to carry stormwater, roadside drainage ditches along unimproved city streets but not access drive culverts; and
- d) Flood control and stormwater quality facilities (levees, dikes, overflow channels, swales, biofiltration facilities, infiltration facilities, detention basins, retention basins, dams, pump stations, groundwater recharging basins, sediment traps, wetlands, etc.) that have been designed and constructed expressly for use by the general public and accepted by the city.

**Enforcement Action:** Citations, civil penalties, or abatement charges issued, assessed, or billed against a responsible party.

**Enforcement Officer:** The person designated by the City Manager to enforce the provisions of Sections 6.615 of the Eugene Code, 1971 and these rules.

**Notice of Violation:** When the (jurisdictional stormwater authority) determines that an activity is not being carried out in accordance with the requirement of these rules, it shall issue a written notice of violation.

**Operations and Maintenance (O&M):** The continuing activities required to keep stormwater management facilities and their components functioning in accordance with design objectives.

**Routine Maintenance:** Activities and practices which are necessary to maintain the operating capacity, functional integrity, or aesthetics of a place or facility. Routine maintenance includes, but is not limited to, landscaping, cleaning of stormwater facilities, repairing of stormwater facilities.

**Responsible person or responsible party:** A permit holder, property owner, or their agent or contractor, or other person who is responsible for meeting the outcomes, or responsible for violation of this Rule.

**Stormwater:** Water runoff that originates as precipitation on a particular site, basin, or watershed.

**Stormwater Development Standards:** Regulations for locating, designing, constructing, and maintaining stormwater facilities, applicable to development of new and replaced impervious surfaces.

**Stormwater Management Facility:** Any structure or configuration of the ground that is used as, or by its location becomes, a place where stormwater flows or is accumulated, including but not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, ponds, open drainage ways, runoff control facilities, water quality facilities (swales, vegetated filter strip), wetlands, and their accessories.

**Stormwater Management Manual:** Provides stormwater management principles and techniques that help preserve or mimic the natural hydrologic cycle and achieve water quality goals. This *Stormwater Management Manual* provides developers and design professionals with specific requirements for reducing the impacts of stormwater runoff quantity and pollution resulting from new development. Manual adopted by the city in the manner set forth in EC 2019 City Manager Administrative and Rulemaking Authority and Procedures.

**Violations:** Any development activity that is commenced or is conducted contrary to this rule, may be restrained by injunction or otherwise abated in a manner provided by law.

### **Applicability**

**Applicability.** Section 6.615 applies to all stormwater facilities designed and constructed in accordance with sections 9.6790 through EC 9.6797 of the Eugene code and the Stormwater Management Manual. Local policy (Comprehensive Stormwater Management Plan, SWMP\*) Federal water quality regulations (Clean Water Act\*) Eugene's National Pollution Discharge Elimination (NPDES\*) permit.

Eugene Ordinance 20369: Amendments to Chapter 9 (9.6790-9.6976) of the Eugene Code implement regulations for destination (flood control), pollution reduction (water quality), flow control (stream bed protection), oil control, and source controls (water quality) for stormwater runoff from development of new and replaced impervious surfaces and enforcing on-going operation and maintenance responsibilities for stormwater facilities have been adopted.

### **Maintenance and Reporting**

#### **(1) Maintenance Responsibility.**

(a) Unless the city accepts the responsibility to operate and maintain a stormwater facility, all stormwater management facilities shall be privately operated and maintained. Failure to operate and maintain stormwater facilities is recognized as a public nuisance.

(b) All stormwater facilities shall be operated and maintained in accordance with the applicant's Operations and Maintenance Plan submitted to the city with the application proposing the private operation and maintenance of the stormwater facility.

**(2) Submission of Operation and Maintenance Plans.**

Applicants are responsible for submitting a recorded Notice of Operation and Maintenance Plan; Form Operation & Maintenance Plan (Form O & M) and a facility-specific O & M Plan. Each form is provided in the Stormwater Management Manual, Chapter 4.

**(3) Maintenance Compliance Reports.**

- a) Maintenance Compliance Reports verifying that the stormwater facility is and has been operated and maintained as required in (1)(b) above, shall be prepared and submitted to the city annually.
- b) Required elements of maintenance compliance report include documentation of all inspection and maintenance activities performed the previous year; when they were performed; by whom; problems that were noted and corrective actions that were taken. Maintenance compliance reports are to be kept by owner.
- c) Reporting Period: Annually for all private BMPs. The date reports are due will be determined at the discretion of the Enforcement Officer.
- d) Applicability related to BMP responsible party: Owner/Manager binding to the owner, refer to language in notice of operation and maintenance plan.

**Enforcement**

**(1) Enforcement**

(a) Inspections. The city may make periodic inspections to ensure compliance with Section 6.615, the Stormwater Management Manual, and the Operations and Maintenance Plan. Authorized representatives of the city may enter private property at reasonable times to ensure such compliance and to conduct on-site inspections or conduct code enforcement actions related to the stormwater facility. If the premises are occupied, the city representative shall first present proper credentials and request entry. If the premises are unoccupied, reasonable efforts shall first be made to locate the owner or person in charge of the premises and request entry. No person shall deny a request for or interfere or prevent any inspection authorized by this section. Should entry be refused, the city shall have recourse to every remedy provided by law to secure entry, including the issuance of a search warrant.

(b) Intervention. The primary focus of section 6.615 of the Eugene Code, 1971 and these Rules is to achieve compliance with the outcomes specified in **R- 6.615-A** and ensure that stormwater management facilities are operated and maintained in accordance with the Stormwater Management Manual. The City will use the amount of enforcement necessary to achieve compliance. Where possible the City will rely on education rather than enforcement. The City Manager may provide educational programs or other informational materials that will assist permittees in meeting the desired erosion and sedimentation controls, and other construction site management practices outcomes.

(c) Violations. Failure to operate and maintain a stormwater facility in accordance with Section 6.615, the Stormwater Management Manual or the Operations and Maintenance Plan may result in:

1. The issuance of a non-compliance order by the city.
2. The issuance of a citation into municipal court for violation of this code.
3. The imposition of an administrative civil penalty pursuant to the provisions of section 2.018 of this code and as authorized by section 6.995 of this code;
4. An order to investigate all of the impacts caused by the violation; and/or
5. Abatement of the unlawful actions as a nuisance as provided in sections 6.005 through 6.115 of this code, including, but not limited to, complete restoration of all impacts to open waterways resulting from the unlawful actions.

(d) For purposes of subsections (5)(b)2 and (5)(b)3 of section 6.615, each date that the unlawful condition exists shall constitute a separate violation.

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(e) For purposes of enforcing an administrative civil penalty imposed under this section and, if applicable, entry of a lien pursuant to section 2.018(11), if the violation for which the penalty was imposed involves a mechanical stormwater facility located on a portion of a planned unit development, condominium or other development that is commonly owned or owned by a homeowners' association, each parcel or unit in the development shall be liable for the administrative civil penalty, and the city may enter a lien for the full amount of the unpaid administrative civil penalty against each parcel or unit in the development.

(f) Failure to file a periodic report required by section 6.615(4) and administrative rules adopted pursuant to that section may result in imposition of an administrative civil penalty pursuant to the provisions of section 2.018 of this code.

(g) Rules and fees. The City manager may adopt rules and fees for implementation of section 6.615, using the procedures in sections 2.019 and 2.020 respectively of this code. (Section 6.615 added by Ordinance No. 20373, enacted November 22, 2006, effective December 22, 2006.)

**R-6.615- H Assessment of Administrative Civil Penalty**

**Authority of Enforcement Officer.** The enforcement officer is authorized to impose an administrative civil penalty upon a reasonable person for a violation of the provisions of the Eugene Code, 1971 set forth in paragraph C of Administrative Order No. 58-11-09. Prior to imposition of an administrative civil penalty the enforcement officer or designee shall provide the responsible person with written notice of the violation and an opportunity to correct the violation of not less than five days. However, if the violation is intentional, knowing, repetitive, or involves Sections 6.010, 6.446, 6.805, or 6.810 of the Eugene Code, 1971, no written notice or opportunity to correct is required to imposition of the administrative civil penalty.

Exhibit A: Example Maintenance Log

<u>STORMWATER MANAGEMENT FACILITY</u> <u>INSPECTION &amp; MAINTENANCE LOG</u>	
<b>Property Address:</b>	
<b>Inspection Date:</b>	
<b>Inspection Time:</b>	
<b>Inspected By:</b>	
<b>Approximate Date/Time of Last Rainfall:</b>	
<b>Type of Stormwater Management Facility:</b>	
<b>Location of Facility on Site (In relation to buildings or other permanent structures):</b>	
<b>Water levels and observations (Oil sheen, smell, turbidity, etc.):</b>	
<b>Sediment accumulation &amp; record of sediment removal:</b>	
<b>Condition of physical properties such as inlets, outlets, piping, fences, irrigation facilities, and side slopes. Record damaged items and replacement activities:</b>	
<b>Presence of insects or vectors. Record control activities:</b>	
<b>Identify safety hazards present. Record resolution activities:</b>	
<b>Does the facility need to be cleaned or any repairs needed:</b>	
<b>Additional Comments:</b>	



Exhibit B: Example Inspection Letter



Date

Property Owner  
Address  
City, State Zip Code

Subject Property:       **(Subject Property Address)**

Our records indicate a privately-owned stormwater quality facility or facilities are associated with the above subject property address. This information is provided in an Operation and Maintenance (O&M) document, which was recorded through Lane County, and is now on file with The City of Eugene. A maintenance log has been enclosed for review. Eugene Code (sections 6.615, 9.6797) requires owners of a private structure, to operate, inspect and maintain per the guidelines listed in the O&M document.

This letter is intended to educate property owners and serve as a thirty-day courtesy notice that inspection and potential maintenance of privately-owned stormwater quality facility or facilities is approaching. Inspection of the private storm water facility must occur by **(Date)**. Once facility inspection is complete, please return a copy of the inspection log to **(Stormwater Facility Manager)** at 1820 Roosevelt Blvd Building 6 Eugene, Oregon 97402 or electronically at [SFM@eugene-or.gov](mailto:SFM@eugene-or.gov) for records of completion.

At any time during the thirty-day courtesy notice, if you have any questions or would like an onsite consultation please call the number below. The owners' inspection and maintenance logs pertaining to the above facility will be considered during the inspection process. If after the inspection process it is determined follow up maintenance is required, maintenance activities must then occur within 30 days of the initial inspection date.

If circumstances arise which preclude inspection and maintenance on or before the above date(s), notice must be presented in writing to the inspector requesting a new proposed date(s), and viable reason(s) as to why a delay is needed. Viable reason(s) might include but are not limited to, contractor scheduling conflicts or back ordered filter assemblies etc. The inspector may with written reasonable notice gain entry to the property and inspect the facility prior to the due date to ascertain the condition of the facility, to then determine if a time extension will be allowed. If the system is found to be surcharged or in disrepair the requested time extension will **not be allowed**.

If maintenance is required, the property owner is responsible to assure proper disposal of all contaminated liquids and solids removed from the facility. Eugene Code (sections 6.446, 6.355) prohibits the illicit discharge of any contaminated material, except at a facility which can accept these types of waste. A delivery ticket or a legible copy, showing the delivery location and approximate quantity of contaminated materials delivered, must be presented provided to the city along with the inspection log. If a property owner fails to initiate the inspection and maintenance process within the time allowed, the City may issue a Notice of Non-Compliance, resulting in imposition of civil penalties.

I hope the above information has been helpful. If you need further information or clarification about the requirements or process, please feel free to contact me at **(Phone Number)**.

Sincerely,

Stormwater Facility Manager

Enclosures:           Sample Maintenance Log

Exhibit C: Example Violation Notice Letter



Date

Property Owner  
Address Eugene,  
Oregon

**SUBJECT: WRITTEN NOTICE OF VIOLATION**

Subject Property: **(Subject Property Address)**

According to Lane County records, you are the listed owner of a mechanical stormwater quality facility at the above subject property. Per city of Eugene Municipal Code 6.615 and 9.6797, annual reports or logs verifying that the stormwater facility is and has been operated and maintained shall be provided to the City. In **(Date)**, City staff sent a thirty-day courtesy notice letter to the listed owner of the facility requesting maintenance log(s) and have not received the completed reports by the designated due date. **Failing to submit adequate maintenance records with the City may result in imposition of civil penalties of \$140 per facility.**

An annual water quality inspection is required to ensure that the stormwater quality facility is being operated and maintained appropriately.

This letter is to inform you that the thirty-day courtesy notice has lapsed. This is the final inspection notice and potential maintenance request for your facility or facilities. Inspection of the private storm water facility must occur and be submitted to the city by **(Date)**. If inspection log(s) are not received by the due date, the facility or facilities at the subject address will be issued a Notice of Non-Compliance, resulting in imposition of civil penalties.

At any time during the final notice, if you have any questions or would like an onsite consultation please call the number below. If after the inspection process it is determined follow up maintenance is required, maintenance activities must then occur within 30 days of the initial inspection date.

If maintenance is required, the property owner is responsible to assure proper disposal of all contaminated liquids and solids removed from the facility. Eugene Code (sections 6.446, 6.355) prohibits the illicit discharge of any contaminated material, except at a facility which can accept these types of waste. A delivery ticket or a legible copy, showing the delivery location and approximate quantity of contaminated materials delivered, must be presented provided to the city along with the inspection log.

I have enclosed a copy of the maintenance inspection log for use in facility inspection and a facility location map for your use. Inspection log(s) can be submitted to the city electronically through the email provided below or a hard copy can be mailed, or hand delivered to **Stormwater Facility Manager** at 1820 Roosevelt Blvd Eugene, Oregon 97402. If you need further information or clarification about the upcoming inspection or requirements, please feel free to contact me at **(Phone Number)** or [SFM@eugene-or.gov](mailto:SFM@eugene-or.gov).

Sincerely,

Stormwater Facility Manager

Enclosures: Sample Maintenance Log, Facility Location Map

Exhibit D: Example Notice of Violation Letter



Date

Property Owner  
Address  
City

**SUBJECT: SECOND WRITTEN NOTICE OF VIOLATION**

Subject Property: **(Subject Property Address)**

According to Lane County records, you are the listed owner of a mechanical stormwater quality facility at the above referenced subject property. City staff sent a thirty-day courtesy notice letter on **(Date)** and also a first violation notice letter on (date). Both letters were sent to the listed owner of the facility requesting maintenance log(s) and the City has not received the completed reports by the designated due dates. Due to the two lapsed deadlines, your facility is now considered non-compliant and a civil penalty of \$140 will be assessed.

- *Under Eugene City Code 6.615 and 9.6797, failure to operate and maintain a stormwater quality facility and/or failing to file adequate maintenance records with the City may result in imposition of civil penalties.*

This letter is to inform you that a formal inspection of your facility will be scheduled within the next two weeks. The formal inspection is being performed because the inspection and maintenance logs that are required to be submitted to the City annually had not been submitted for this facility.

Please note that any deficiencies found at the time of inspection will require corrective action within 5 days of the inspection. Failure to provide maintenance documentation or conduct the required maintenance may result in additional civil penalties.

I have enclosed a copy of a sample maintenance log and facility location map for the subject address. If you would like to be present at the inspection, please contact me as soon as possible to set up a time to meet on site to conduct the formal inspection. If you need further information or clarification about the upcoming inspection or requirements, please feel free to contact me at **(phone number)** or [SFM@eugene-or.gov](mailto:SFM@eugene-or.gov).

Sincerely,

Stormwater Facility Manager

Enclosures: Sample Maintenance Log, Facility Location Map