



# CITY OF OREGON CITY PLANNING COMMISSION AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City  
Monday, November 18, 2024 at 7:00 PM

Ways to participate in this public meeting:

- Attend in person, location listed above. Please see the public comment guidelines below.
- Attend the livestream of the meeting on the City's YouTube Channel:

<https://www.youtube.com/user/CityofOregonCity>

- Register to provide electronic testimony (email [ocplanning@orc.org](mailto:ocplanning@orc.org) or call 503-722-3789 by 3:00 PM on the day of the meeting to register)
- Email [ocplanning@orc.org](mailto:ocplanning@orc.org) (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)
- Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045

## 1. CONVENE MEETING AND ROLL CALL

## 2. APPROVAL OF MINUTES

- a. Approval of October 28, 2024 Meeting Minutes

## 3. PUBLIC COMMENTS

*Please see the public comment guidelines below.*

## 4. PUBLIC HEARINGS

- a. GLUA-24-00026/ZC-24-0002/LEG-24-00003 Legislative: OCMC 17.47 Erosion and Sediment Control Text Amendment

## 5. COMMUNICATIONS

## 6. ADJOURNMENT

### PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the clerk. When the Chair calls your name, proceed to the speaker table, and state your name and city of residence. Each speaker is given 3 minutes to speak. As a general practice, the committee does not engage in discussion with those making comments. Complaints shall be addressed at the department level prior to addressing the committee.

### ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the [Oregon City's website](https://www.oregoncity.org) and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WPMC at 503-650-0275 for a programming

schedule.



# CITY OF OREGON CITY PLANNING COMMISSION MINUTES

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Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City  
Monday, October 28, 2024, at 7:00 PM

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## 1. CALL TO ORDER AND ROLL CALL

*Chair Stoll called the meeting to order at 7:02 PM.*

Present:7 – Chair Greg Stoll, Vice Chair Paul Espe, Commissioner Brandon Dole, Commissioner Bob LaSalle, Commissioner Karla Laws, Commissioner Dirk Schlagenhauser, Commissioner Daphne Wuest

Absent:0

Staffers: 3 - Community Development Director Aquilla Hurd-Ravich, Planning Manager Pete Walter, Deputy City Attorney Carrie Richter, Assistant Planner Christina Robertson-Gardner, City Engineer/Public Works Director Dayna Webb

## 2. MEETING MINUTES

A. Meeting Minutes for Approval: September 23, 2024.

**A motion was made by Commissioner La Salle, seconded by Commissioner Dole to approve the meeting minutes for September 23, 2024.**

**The motion carried by the following vote:**

**Yea: 7 - Commissioner Dole, Commissioner Wuest, Commissioner LaSalle, Commissioner Laws, Commissioner Schlagenhauser, Vice Chair Espe, Chair Stoll**

**Nay: 0**

## 3. PUBLIC COMMENT

- A. Mayor Denyse McGriff gave a brief update on the work she has been involved in with regards to the current county courthouse building and plans for it when the new courthouse opens. The past two years have been spent on convincing the county that there is a need to be proactive in what happens with the historic building once it is vacated. This year, the county has agreed that a quick small taskforce be assembled which includes representatives from the Clackamas County Commission, Chamber of Commerce, the Downtown Oregon City Association (DOCA) and the Oregon City Business Alliance. Mayor Denyse is co-chairing it with County Commissioner Smith. James Graham, Oregon City's Economic Development director, is involved as well.

The building is historic and is a result of the local workforce and materials. The discussions have started about the opportunities and the constraints of the building. The county has done deferred

maintenance through the years. Discussion will conclude in the next meeting regarding if the building should stay “as is”, be rehabilitated or be demolished. The task force appears to be leaning towards the rehabilitation option.

Mayor Denyse has been pushing since 2019 for the county to work with the city and be proactive about the plans for the building, rather than reactive. Her goal was to be in a working relationship with them. The community relies on that building and the taskforce feels that it needs to be re-activated and continues to contribute to our City center. We don't want this valuable asset to remain vacant, allowed to deteriorate further and that a partnership be established with the County.

She will keep the Commission updated with the taskforce's decision.

The commissioners had a few questions about the integrity of the building, the idea of a outright sale of the building versus a lease option, the cost of running the building, constraints in the use of the building versus change in occupancy.

#### **4. PUBLIC HEARING**

##### **4A. LEG-24-01 – Park Place Concept Plan Code Amendments**

Director Aquilla Hurd-Ravich gave a brief introduction about how we got here and that we are here to review Code Amendments following the LUBA direction to provide clear and objective standards to the Concept Plan. There is not an application at this time. She also covered when it is best to provide public comments and how to know when to do that.

Planning Manager Pete Walter presented the staff report for the continued Park Place Plan Code Amendments hearing. He reviewed some main points about Alleys and Garage Orientation Standards, Housing Diversity Obligations and the Parks and Trails Land Dedication and Fee-in Lieu that were outlined in his staff report. He explained that there is not double-dipping in the SDCs for parks as previously pointed out as a concern by the Commission.

Pete continued doing an overview of revisions to the various code chapters that had already been addressed by the Planning Commission in previous meetings. Chapters and sections revised included:

- a. From the last meeting, there was a concern about the perimeter transition lots section which has now been revised to outline that this only applies to city properties.
- b. 17.21.090(B).(3) – Corrects the code section cross-referenced for mitigation to applicable chapter of design standards.
- c. 17.21.105 – Housing Diversity Standards – revised to require lots be identified at the time of subdivision rather than units.

#### **PUBLIC COMMENT**

- A. Kelly Poindexter from the Trailview Neighborhood spoke to the concern about adding two more roads to the development is a safety concern with the number of vehicle trips it will add to the existing roads. Adding traffic is a detriment for emergency responders as well as to residents when there is eminent danger. Purchasing a home on a dead-end street was purposeful and bringing streets through it makes her want to move out of Oregon City.
- B. Tyler Gill on Holly Crest Lane moved to Oregon City for a rural setting to raise a family.

At the time of purchase, they were not made aware of the concept plan. There are pros for high density housing in some areas, and they already exist. There are plenty of areas to develop but their backyards are not one of them. Schools are already underfunded. They are on septic; how do you plan to treat the wastewater of so many more properties. Feels like this has been done behind the scenes as they were not made aware of any of this when they moved in 2 ½ years ago. Respectfully asks the commission to listen to the neighbors and not the big developers.

- C. Megan Keough from Holly Crest Lane is concerned about the impact of decisions being made will have on the local economy and quality of life. She counted 9 vacant businesses on Main St alone, and the City should be focusing more on filling what already exists before expanding a new development. Building a commercial area on the hill of rural Livesay Rd lacks destination quality and does not create a community appeal. The new Maple Lane apartments has already had a significant impact on traffic and there are other potential development in the area that will have a ripple effect. Please be mindful of each decision and how it affects the daily lives of the residents. Asking for thoughtful balanced growth that will benefit the community not Icon's pockets.
- D. Tom Geil from Oregon City as president of Trailview HOA. He provided a map of the area in question. He believes traffic should be part of the code. He spoke about the traffic the area would be dealing with if the Park Place area is developed. There is one way out and it took hours to get out a few years ago when there was fire danger. Development should not be allowed to build without adding another road to Redland.
- E. Jane Nitschky is concerned about the traffic flow on Holcomb and the intersection at Redland is already getting bad. There should be more traffic flow study done before more development is allowed.
- F. Joyce Carlson talked about how the developments are destroying Oregon City's charm. Wildlife is disappearing, traffic is increasing, children are in more danger due to the narrow streets and the increase in traffic.
- G. Christine Kosinski provided a copy of her testimony which was distributed. Items included on that memo included requests for: 1) A trip cap, 2) SB762 be part of the concept plan, 3) an evacuation plan be part of the concept plan, 4) release all homeowners on Holly Lane from liability and 100% of any and all losses from any landslides if Holly Lane is to take on added traffic from development, 5) that all meeting notices regarding PPCP go to all homeowners on Holly Lane.
- H. Bradley King is an Oregon City resident and also represents some property owners along Livesay Rd. The delay in development in this area has been difficult for the property owners who purchased the property years ago as an investment with hopes to develop it someday. He reminded people that at some point in time when their home was built, it was a development and that was a disruption to those who lived in the area at that time. So there are negative aspects for building, but there are also negatives for others when there is not building.
- I. Harlan Borow from the acquisition and development manager for Icon. He spoke about the Standard Design Elements are going to increase the costs of homes and cause delays. He asked if the aesthetic preference that the City made in 2006 are relevant in today's market and whether those aesthetic preferences are worth increasing the cost of the homes by 20-50%. They look forward to working with the City about these issues and how to get Holly from Holcomb to Redland.

Commissioner Wuest is concerned that the language for the SDCs still seems that it is double-dipping. So how can that be cleaned up to make it clearer. Deputy City Attorney, Carrie Richter, explained the process and how it works so that there is not double-dipping. It was also noted that this is a one-off to have this structure for Park Place. It makes sense to apply this to future developments.

Commissioner LaSalle spoke about the 400+ pages sent out in preparation of this meeting and that many of those were from ICON arguing to change the concept plan. The purpose of the meeting again tonight is to approve the changes and the wording of the concept plan to achieve clear and objective standards.

Commissioner Schlagenhauser asked about how the city is applying clear and objective standards to other projects in the City. Deputy City Attorney, Carrie Richter, explained that there was a program in the past that put in objective standards for the regular code.

There was also a question about zoning dictating development. Director, Aquilla Hurd-Ravich, explained that property is not annexed into the city without property owner initiation. Once annexed and zone, then development could occur should the market demand it. There is not a timeline for a concept plan, but if there was, it would come from Metro.

Do churches have to follow the same guidelines as far as transportation studies, etc.? Director, Aquilla Hurd-Ravich, explained that a lot of the land in the concept plan is in the county. If a church is in the county, it would follow county guidelines, not ours. If the City knows of a county application, we can comment as an interested party.

Commissioner Laws asked for confirmation that Main Street Village as part of the concept plan has not changed. Planning Manager, Pete, confirmed that it is the case. She also asked about traffic safety analysis was being done recently and thought Holcomb Blvd and wondered if that was the case. Planning Manager, Pete indicated that the City does regular studies and posts them on the website, but those are not the same as what the developers do when they submit an application.

There was also mention of DEI training that traffic safety was mentioned. Will future applications be looking at equity as we have so many people working from home, but others are not. Planning Manager, Pete, responded that equity considerations is taken into account in some ways in zoning and Transportation System Plan. It is important and should be taken into account in the next TSP update.

Commissioner Laws also asked if the City has a natural disaster erosion plan for areas that could be prone to landslides? Park Place is a volatile area and there are no tree policies currently that would help with erosion. Planning Manager, Pete, indicated that there is the geological overlay district and it was just amended to include a 200 ft buffer which is part of the design criteria. Public Works will respond to any current slide issues that are emergency. There are tree regulations in the overlay districts on steep slopes and that is reviewed on applications.

There was discussion about the garage orientation code. Concerned that it adds a lot of impervious surfaces, and it also adds 20% to the cost to have a long driveway with a detached garage in the back. Is there another way to achieve the design standards. Planning Manager, Pete, indicated that there is a way to apply for a modification through the land use process, but Planning Commission can choose to add additional exemptions for certain housing types. Pete has talked to Engineering and they don't have a stand one way or another about alleys. There is not application at this time to review for standards. Further conversation indicated that more explicit wording would be a good revision to the code.

There was a question if we require so many lots be middle housing, and therefore, the applicant could request a mandatory adjustment. Planning Manager, Pete, indicated that yes, so many lots must be designated on the plat for middle housing dependent on the number of acres which is outlined in the Diversity Standard.

We are trying to promote affordable housing. Is there a way to incentivize or encourage more detached housing that would be affordable. Planning Manager, Pete, responded that as a City we cannot act as a Housing Authority, but we can develop land use guidelines that encourage housing units.

Chair Stoll closed the Public Record.

Discussion followed about cost of doing alleys.

**A motion was made by Commissioner Espe, seconded by Commissioner Dole to recommend adoption of the Park Place Concept Plan code amendments with modifications for greater clarity with respect to location of garages that they may be attached or detached as long as they are side or rear entry for all housing types including middle housing townhouses, but it won't change the modification provisions that authorizes variations in those standards.**

**The motion carried by the following vote:**

**Yea: 6 - Commissioner Dole, Commissioner Wuest, Commissioner LaSalle, Commissioner Laws, Vice Chair Espe, Chair Stoll**

**Nay: 1 - Commissioner Schlagenhauser**

This will be taken to City Commission on December 4, 2024.

- 4B. GLUA-24-00023/LEG-24-00002 Legislative: McLoughlin Blvd Enhancements: an update to the Transportation System Plan

Chair Stoll opened the public hearing and read the hearing statement. He then asked for any conflicts of interest by any of the Commissioners. There were none stated.

Senior Planner, Christina Robertson-Gardner, presented the staff report. She gave an overview of the project and the timeline of the process so far. She also provided a couple of updates after the 9/23/2024 meeting due to a site visit to Larry Morton's Transmission Service. Secondly, there was a combined PRAC/NRC regarding providing additional language for the plan.

Nick Gross with Kittleson and Associates explained how over the last year, the alternative process and recommended long span came to be. Lots of additional information was brought in to hone in the details of the recommended long span. He also showed streetscape improvements north of 10<sup>th</sup> Street which includes greening the corridor, widening sidewalks, connecting downtown across McLoughlin to the waterfront, etc.

There has been comprehensive public involvement in this process including online open houses, in-person outreach and interested party interviews.

Public Works Director, Dayna Webb, updated the commission about two grants that are being proposing and submitting for. First, Metro has Regional Flexible fund – applied for design and construction of the streetscape portion of the project. That application has made it to the next step of review so we are working on refined submittal. Second, working on an application for a Step 2 Grant (same program that funded the Molalla Ave Streetscape) asking for project development for the streetscape and bridge which would be the plans for the project.

## **PUBLIC COMMENT**

- A. Paul Edgar, a resident of Oregon City, is wondering how we get people who come in to see the Long Span across McLoughlin. There is a major design flaw right now. Need an overpass to get over McLoughlin. Putting in a crosswalk is going to back traffic up awful. We need people to come back into the business area of the City. This is critical to the City and needs to be figured out.

Discussion about overpass and underpass ensued.

A commissioner wanted to know about communication with Fish & Wildlife and was told that there is an environmental specialist on the team and those conversations will become more pertinent as the project progresses.

Vehicle and maintenance will be addressed. The current plan has the bridge wide enough for a vehicle to be on. They have been working with ODOT about maintenance access.

There are other long-span bridges and they have been reviewed for what worked and not worked.

If there was a flood, the bridge would be underwater. It may need to be supported in the middle. There is more work to be done in the details, but they were working on the concept with the end-to-end attachments.

Question was raised about the probability of the old Arch Bridge falling in an earthquake and taking out the Long-Span. There is no way to know at this time.

**A motion was made by Commissioner Espe, seconded by Commissioner LaSalle to recommend adoption of GLUA-24-00023/LEG-24-00002 and send to City Commission.**

**The motion carried by the following vote:**

**Yea: 7 - Commissioner Dole, Commissioner Wuest, Commissioner LaSalle, Commissioner Laws, Commissioner Schlagenhauser, Vice Chair Espe, Chair Stoll**

**Nay: 0**

This will be taken to City Commission on November 20, 2024.

- 4C. GLUA-24-00026/ZC-24-00002/LEG-24-00003 Legislative: OCMC 17.47 Erosion and Sediment Control Text Amendment

**A motion was made by Commissioner LaSalle, seconded by Commissioner Espe to continue GLUA-24-00026/ZC-24-00002/LEG-24-00003 to date certain of November 18, 2024.**

**The motion carried by the following vote:**

**Yea: 7 - Commissioner Dole, Commissioner Wuest, Commissioner LaSalle, Commissioner Laws, Commissioner Schlagenhauser, Vice Chair Espe, Chair Stoll**

**Nay: 0**



## 5. COMMUNICATIONS

Next meeting scheduled is November 18 because November 11 is a holiday. There will also be a meeting on November 25.

Commissioner Wuest's term is coming to an end and she will be on vacation for the month of November. Since there are no meetings currently scheduled for December, Director Aquilla Hurd-Ravich expressed thanks to Commissioner Wuest for her years of volunteer service.

Commissioner LaSalle asked about when the construction for acoustics will begin and where will our meetings be held during the construction. Aquilla was not sure about the plan or timing. It was also asked about Captions being used during meetings. We will check with the City Recorder about using that feature.

## 6. ADJOURNMENT

*Chair Stoll adjourned the meeting at 9:50 p.m.*





## CITY OF OREGON CITY

625 Center Street  
Oregon City, OR 97045  
503-657-0891

### Staff Report

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**To:** Planning Commission **Agenda Date:** November 18, 2024  
**From:** Jude Thaddaeus, Assistant Planner

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#### **SUBJECT:**

GLUA-24-00026/ZC-24-0002/LEG-24-00003 Legislative: OCMC 17.47 Erosion and Sediment Control Text Amendment

#### **STAFF RECOMMENDATION:**

Based on the findings in this report, staff recommends the Planning Commission recommend approval of amendments to OCMC 17.47 for Erosion and Sediment Control. Staff will prepare an Ordinance when the matter is before the City Commission for its consideration and adoption.

#### **EXECUTIVE SUMMARY:**

The Oregon City Public Works Department requests the adoption of an ordinance to revise Oregon City Municipal Code section 17.47. The request for code changes is made due to Oregon Department of Environmental Quality (DEQ) requirements relating to the City's Municipal Separate Storm Sewer System (MS4) permit to update code language to address construction site runoff.

#### **BACKGROUND:**

The City of Oregon City operates under a Municipal Separate Storm Sewer System (MS4) Permit to comply with the State of Oregon DEQ regulations and requirements. One of those requirements was to update the Municipal Code relating to Erosion Control. Specifically, the MS4 permit requires municipal code to not only address erosion and sediment control, but it now also requires how construction site runoff is addressed. While the existing Erosion and Sediment Control code (OCMC 17.47) has been used for all construction site runoff controls, DEQ has determined through its MS4 permit that 'construction site runoff' needs to be explicit in municipal code rather than relying on the phrase 'Erosion and Sediment Control'. The idea behind the update of the MS4 permit was to ensure that not only construction site runoff relating to erosion of sediment was controlled, but also any other construction site runoff such as concrete wash, oil concerns, and other runoff not associated with sediment.

The City already has a Stormwater Management Plan and Illicit Discharge Ordinance which address all of the concerns beyond sediment controls including items such as concrete wash, oils, and other chemicals reaching our streams, rivers, lakes, and oceans by way of constructed storm sewer pipes, swales, and other conveyance systems. Post construction runoff is addressed by way of the City's Stormwater and Grading Design Standards which requires owners to operate and maintain stormwater management systems which address water quality and water volumes.

**NEXT STEPS:**

Adoption of the code amendments is a legislative action that requires review and recommendation from the Planning Commission prior to adoption by the City Commission following public hearings.

**OPTIONS:**

1. Recommend approval of LEG-24-00003 as proposed.
2. Recommend approval of LEG-24-00003 with specific revisions.
3. Do not recommend approval of LEG-24-00003 and provide direction to Staff.



## LEGISLATIVE STAFF REPORT AND RECOMMENDATION

*A preliminary analysis of the applicable approval criteria for a legislative proposal is enclosed within the following report.*

October 18, 2024

**HEARING DATE:** **October 28, 2024** - Planning Commission

**FILE NUMBER:** **GLUA-24-00026 / LEG-24-00003 / ZC-24-00002**

**APPLICATION TYPE:** Legislative Text Amendmet (OCMC 17.50.170)

**APPLICANT:** City of Oregon City, c/o Public Works Development Department  
Po Box 3040, Oregon City, OR 97045  
Josh Wheeler, Assistant City Engineer  
Marcos Kubow, Water Quality Coordinator

**REQUEST:** Amendments to Chapter 17.47 – Erosion and Sediment Control, of the Oregon City Municipal Code

**LOCATION(S):** Citywide

### I. BACKGROUND:

The Oregon City Public Works Department requests the adoption of an ordinance to revise Oregon City Municipal Code section 17.47.

The request for code changes is made due to Oregon DEQ requirements relating to the City's Municipal Separate Storm Sewer System (MS4) permit to update code language to address construction site runoff.

### II. EXECUTIVE SUMMARY

The proposed code amendments are attached to this report as an exhibit.

The City of Oregon City operates under a Municipal Separate Storm Sewer System (MS4) Permit to comply with the State of Oregon Department of Environmental Quality regulations and requirements. One of those requirements was to update the Municipal Code relating to Erosion Control. Specifically, the MS4 permit requires municipal code to not only address erosion and sediment control, but it now also requires how construction site runoff is addressed. While the existing Erosion and Sediment Control code (OCMC 17.47) has been used for all construction site runoff controls, DEQ has determined through its MS4 permit that 'construction site runoff' needs to



be explicit in municipal code rather than relying on the phrase ‘Erosion and Sediment Control’. The idea behind the update of the MS4 permit was to ensure that not only construction site runoff relating to erosion of sediment was controlled, but also any other construction site runoff such as concrete wash, oil concerns, and other runoff not associated with sediment.

The City already has a Stormwater Management Plan and Illicit Discharge Ordinance which address all of the concerns beyond sediment controls including items such as concrete wash, oils, and other chemicals reaching our streams, rivers, lakes, and oceans by way of constructed storm sewer pipes, swales, and other conveyance systems. Post construction runoff is addressed by way of the City’s Stormwater and Grading Design Standards which requires owners to operate and maintain stormwater management systems which address water quality and water volumes.

### **III. SUMMARY OF IMPACT**

#### **Who is affected by this regulation?**

This code update to OCMC 17.47 will impact any project which seeks a permit for construction which disturbs over 1,000 square feet of ground. The projects which would have sought a permit before, using the standard over 1,000 square feet disturbance, will continue to be required to obtain a permit. The only difference is that enforcement of 17.47 is now regulated for more than sediment controls and also regulates other illicit discharges alongside the City’s Stormwater Management Plan and Illicit Discharge Ordinance.

#### **How are the following terms to be added to the code, defined?**

- **Construction Site Runoff**

Precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed stormwater control or infiltration facility. Stormwater runoff from activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres (Small Construction) and five acres and above (Large construction) that contains sediment or waste materials from the defined construction site.

- **Construction site wastes**

Waste, waste matter, or waste product, is any material that has been used or served its purpose and is no longer wanted or needed during construction. Waste can include materials that are discarded as useless during production, or materials excreted during life processes.

- **Construction site waste management controls**

A process that involves managing materials that are no longer useful in order to reduce waste and its environmental impact. Construction waste management can include strategies to reduce, reuse, recycle, and properly dispose of waste.

- **Waste materials**

Waste, waste matter, or waste product, is any material that has been used or served its purpose and is no longer wanted or needed. Waste can include materials that are discarded as useless during construction, or materials excreted during life processes.

- **Waste materials control**

See waste management controls.

- **Discharge of construction site waste materials**

The release of any waste materials from a construction site or stormwater containing sediment and untreated pollutants.

- **Pollutant**

Dredged spoil; solid waste; incinerator residue; sewage; garbage; sewerage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into water.

**Do the proposed code revisions change existing city policy or further restrict what can be built on properties in Oregon City?**

No. Projects which disturb 1,000 sf of land have always been required to obtain an erosion control permit. This code update does not change that standard and does not in any way further restrict what is allowed to be built on properties in Oregon City.

**What will occur if the City does not adopt the proposed revisions?**

The City will be out of compliance with the State MS4 permit of which the City is required to participate in due to its size and urban character. To become out of compliance could place the City in a position to receive penalties or fines until such time the City becomes compliant with the regulations of the MS4 permit

**What do NPDES and the MS4 permit do for the City?**

NPDES is defined as the National Pollutant Discharge Elimination System. NPDES is a Federal program created in 1972 to implement the Clean Water Act. The goal of the program is to eliminate, reduce, and minimize pollution to the nation's natural water bodies including but not limited to streams, rivers, lakes, and oceans.

Properties or projects which disturb 1.0 acre or more are required by the NPDES program to seek a permit. State agencies implement the program by way of permit on behalf of the Federal Environmental Protection Agency (EPA). In the State of Oregon, the Department of Environmental



Quality (DEQ) implements the program on behalf of the EPA. In the State of Oregon, the permit which implements the NPDES program for project runoff is a 1200-C permit.

Municipalities and counties are required to have a City Wide or County Wide (sometimes just a portion of the County) MS4 permit. This permit gives the City the requirements to enforce and ensure that projects obtain 1200-C permits and that erosion and construction site runoff are controlled. MS4 permits are categorized either as Phase 1 or Phase 2. Phase 1 permits are for urban areas of greater than 100,000 people. There are 6 MS4 Phase 1 permits in the State of Oregon : Portland Group, Gresham Group, Clackamas Group, Multnomah County and the cities of Salem and Eugene. Oregon City is a participant in the Clackamas Group.

In essence, the NPDES program by way of MS4 permits enforcing 1200-C permits manages the control of erosion, sediment, and construction site runoff.

### **Why should the City make these changes to the code now?**

The City is required to make the code updates due to deadlines provided by DEQ to enforce the City MS4 permit. Deadlines of January 1, 2025 (1-1-25) and January 1, 2026 (1-1-26) exist to enforce various sections of the current MS4 permit and this is just one step in updating policies, codes, and standards to be in compliance with the current MS4 permit.

## **IV. SUMMARY OF PUBLIC OUTREACH**

### **What public outreach has been done, or is planned, related to these changes?**

The city reviewed the code changes with the Development Stakeholders Group on September 12, 2024. The code revisions were presented to the Citizen Involvement Committee on October 7, 2024.

## **V. PROCESS**

Adoption of the code amendments is a legislative action that requires review and recommendation from the Planning Commission prior to adoption by the City Commission following public hearings.

## **VI. PUBLIC NOTICE & COMMENTS**

This is a legislative action that requires public notice pursuant to OCMC 17.50.090.C. - *Notice of Public Hearing on a Legislative Proposal*. The Community Development Director provided the required Post Acknowledgement Plan Amendment (PAPA) notice to the Oregon Department of Land Conservation and Development on 9/23/2024. Notice of the 10/28/24 hearing was posted to the Oregon City Projects website and sent to all agency staff, local stakeholder groups, Neighborhood Associations, and the Citizen Involvement Committee was sent on 10/4/2024. As of October 18, 2024, no public comments have been received by Planning Staff related to this proposal.



## VII. APPROVAL CRITERIA

### ***OREGON CITY COMPREHENSIVE PLAN GOALS AND POLICIES AND STRATEGIES***

Consistency of the proposed code amendments with the applicable goals, policies and strategies from the OC2040 Comprehensive Plan are addressed below.

#### **Chapter 1: Healthy and Welcoming Communities**

***Goal 1: Implement and maintain a community engagement program that provides broad and inclusive opportunities for all Oregon City community members to learn about and understand city government processes, including land use planning, and participate meaningfully in decisions that impact their communities.***

***Policy 1.1 – Support the Citizen Involvement Committee (CIC) and Neighborhood Associations to engage and educate Oregon City community members in land use planning.***

***Strategy 1.1.A - Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.***

**Finding:** This goal has been met by presenting the code revisions to the Development Stakeholders Group (DSG) on September 12, 2024 and the Citizen Involvement Committee (CIC) on October 7, 2024. By meeting with the CIC, the minimum requirement as referenced in Strategy 1.1A has been addressed. To provide additional community engagement, we presented to a group of developers, engineers, and contractors who attend the DSG. That group will be most impacted by this code change.

#### **Chapter 2: Diverse Economy**

***Goal 4: Encourage and support new development that incorporates supportive community features and sustainability principles in site design and building construction.***

***Policy 4.1 – Promote best practices for integrating residential infill development into the fabric of existing neighborhoods.***

***Strategy 4.1.A - Use a combination of incentives and development standards to promote and encourage well designed residential developments that result in neighborhood livability and stability***

**Finding:** This goal has been met by ensuring the requirements of construction site runoff which includes the previously codified erosion and sediment controls is not further restricting development or construction as the standard requirement of receiving a permit is 1,000 square feet of disturbance or more. This standard already existed in the City adopted Stormwater and Grading Design Standards. It is now specifically called out in code. Furthermore, by managing construction site runoff in addition to erosion and sediment control, this code further improves neighborhood livability and sustainability by controlling the potential negative effects of pollution from construction into the city's public ways, sewers, and lands.

**Chapter 3: Connected Infrastructure**

**Goal 2: Ensure public utilities and infrastructure are maintained and improved to adequately serve all existing areas of Oregon City and can be extended to serve newly developing areas in a logical and fiscally responsible manner.**

**Policy 2.3 - Ensure public infrastructure investments are equitably applied across Oregon City neighborhoods.**

**Strategy 2.3.A - Implement the City's wastewater policies through the City of Oregon City Sanitary Sewer Master Plan.**

**Finding:** By adopting this code, the public infrastructure will remain maintained not only by ensuring erosion and sediment are controlled and are prevented from entering the storm sewer system or roadway, but now construction site runoff is included which prevents any substance from entering the sewer or roadway.

**Strategy 2.3.C - Plan, operate, and maintain the stormwater management system for all current and anticipated city residents within Oregon City's existing Urban Growth Boundary and plan strategically for future expansion areas.**

**Finding:** The stormwater management system includes surface runoff into areas such as ditches and piped conveyance of rainwater. By adopting this code, the public infrastructure will remain maintained not only by ensuring erosion and sediment are controlled and are prevented from entering the storm sewer system or roadway, but now construction site runoff is included which prevents any substance from entering the sewer or roadway.

**Policy 2.4 - Increase resiliency to climate change, natural hazard events, and cyber intrusions in public utility infrastructure.**

**Finding:** By controlling construction site runoff, public utility infrastructure will be maintained and will minimize negative impacts on climate change or natural hazard events. Erosion which can cause landslides is prevented by controlling the runoff. This code revision sustains this standard.

**Policy 4.2 - Continue to implement green, sustainable, and low-impact approaches to stormwater management.**

**Finding:** Controlling construction site runoff following the standards of OCMC 17.47, OCMC 13.12, and the Stormwater and Grading design standards allows for keeping our streams, rivers, and lakes clean. By ensuring our stormwater management facilities are not impacted by construction site runoff, we ensure those facilities provide their sustainable low impact function and keep our region green. This code revision sustains this standard.

**Chapter 4: Protected Environment**

**Goal 2: Conserve, protect, and enhance the function, health, and diversity of the City's natural resources and ecosystems.**



***Policy 2.2 - Implement site development and design practices that incorporate natural ecosystem enhancement, minimize impacts on natural resources, and avoid degradation or loss of wetlands, watershed, and habitat.***

***Strategy 2.2.A - Adopt and/or establish standards for all new development that promote the use of pervious surfaces and prevent negative ecological effects of urban stormwater runoff on streams, creeks and rivers.***

**Finding:** Controlling construction site runoff following the standards of OCMC 17.47, OCMC 13.12, and the Stormwater and Grading design standards allows for keeping our streams, rivers, and lakes clean. By ensuring our stormwater management facilities are not impacted by construction site runoff, we ensure those facilities provide the sustainability of natural resources and ecosystems. This code revisions sustains this standard.

***Policy 2.5 - Support water conservation and storm water management efforts within the Willamette Basin.***

***Strategy 2.5.A - Prevent erosion and restrict the discharge of sediments into surface- and groundwater by requiring erosion prevention measures and sediment control practices.***

**Finding:** Controlling construction site runoff following the standards of OCMC 17.47, OCMC 13.12, and the Stormwater and Grading design standards allows for keeping our streams, rivers, and lakes clean. By ensuring our stormwater management facilities are not impacted by construction site runoff, we ensure those facilities provide their sustainable low impact function and keep our region green. This code revision sustains this standard.

***Policy 2.9 - Establish, restore, and maintain a network of connected wildlife habitat corridors.***

***Strategy 2.9.A - Conserve natural resources that have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation, and fish and wildlife habitat.***

**Finding:** Controlling construction site runoff following the standards of OCMC 17.47, OCMC 13.12, and the Stormwater and Grading design standards allows for keeping our streams, rivers, and lakes clean. By ensuring our stormwater management facilities are not impacted by construction site runoff, we ensure those facilities provide the sustainability of natural resources and ecosystems. This code revisions sustains this standard.

### ***III.c. OREGON STATEWIDE PLANNING GOALS***

#### ***Statewide Planning Goal 1 – Citizen Involvement:***

***This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.***

**Response:** Requirements under Goal 1 are met by adherence to the applicable goals and policies of Section 1 of the OC 2040 Oregon City Comprehensive Plan and the citizen involvement processes required by the Oregon City Municipal Code, Chapter 17.50 – Administration and Procedures.

#### ***Statewide Planning Goal 2 – Land Use Planning:***

***This goal requires a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

**Finding:** This goal outlines the land use planning process and policy framework, and is implemented through the applicable Goals and Policies in Section 2 of the Oregon City Comprehensive Plan: Land Use. The Oregon City Comprehensive Plan and Oregon City Municipal Code have been acknowledged by DLCD as being consistent with the statewide planning goals. The City has followed the land use planning process and policy framework established in the City's acknowledged comprehensive plan elements and Oregon City Municipal Code as a basis for all decision and actions related to the use of land and to assure an adequate factual basis for such decisions and actions.

***Statewide Planning Goals 3 & 4: Agricultural Lands and Forest Lands***

**Response:** These statewide planning goals relate to agricultural and forest lands in Oregon and are not applicable to these amendments. These amendments pertain to lands within City limits that is zoned for urban development. By definition, Oregon City does not have rural resource lands such as for agricultural or forest use within its city limits or UGB, and therefore, those goals are not applicable.

***Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas***

**Response:** The City is currently in compliance with the Statewide Planning Goal 5. The amendments do not alter the City's acknowledged Goal 5 inventories or land use programs. No changes will occur directly to current natural resource or historic protections (OCMC 17.49, Natural Resource Overlay District, and OCMC 17.40, Historic Overlay District) because of these amendments; therefore, the amendments are in compliance with Goal 5. In areas subject to the Historic Overlay District, housing types permitted in the underlying zoning districts will be permitted consistent with OAR 660-046-0010(3)(B) and will require review and compliance with Historic Overlay District provisions.

***Statewide Planning Goal 6: Air, Water, and Land Resources Quality***

**Response:** Pursuant to OAR 660-015-0000(6), a Medium or Large City may limit development within an urban growth boundary to support attainment of federal and state air, water, and land quality requirements. Medium and Large Cities may apply regulations adopted pursuant to Goal 6 to the development of Middle Housing. The City is currently in compliance with Statewide Planning Goal 6. The amendments do not alter the City's acknowledged land use programs regarding water quality and flood management protections. As a result, the updates comply with Goal 6.

***Statewide Planning Goal 7 – Areas Subject to Natural Hazards***

**Response:** The City is currently in compliance with Goal 7 for geologic hazard areas by maintaining current development limitations and review requirements. Per OAR 660-046-0010(3)(c), cities may apply protective measures within Goal 7 areas including, but not limited to, restrictions on use, density, and occupancy by limiting middle housing types, in order to reduce risk to people and property from natural hazards.



***Statewide Planning Goal 11: Public Facilities and Services***

***To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.***

**Response:** Goal 11 requires the City to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Pursuant to OAR 660-011-0020(2), a public facility plan must identify significant public facility projects which are to support the land uses designated in the acknowledged comprehensive plan.

***Statewide Planning Goal 12: Transportation***

***To provide and encourage a safe, convenient, and economic transportation system.***

***Statewide Planning Goal 13: Energy Conservation***

***Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.***

**Response:** Goal 13 regarding energy conservation is not applicable because the City's acknowledged regulations implementing Goal 13 remain unaffected by the proposed amendments.

***Statewide Planning Goal 14: Urbanization***

***To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.***

**Response:** Goal 14 requires cities to estimate future growth rates and patterns, and to incorporate, plan, and zone enough land to meet the projected demands. The amendments do not repeal, replace, or void existing code provisions regarding annexation. Therefore, the code amendments are consistent with Goal 14.

***Statewide Planning Goal 15: Willamette River Greenway***

***To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.***

**Response:** Statewide Planning Goal 15 requires cities to adopt local greenway plans, along with criteria for new development, new uses, and the increase of use along the river. Section 15 – Willamette River Greenway of the Oregon City Comprehensive Plan establishes goals and policies that provide a basis for an overlay zone in Title 17 of the City of Oregon City Municipal Code, namely OCMC 17.48 – WRG Willamette River Greenway Overlay District. The proposed code amendments to not change any regulations within Chapter 17.48.



***Statewide Planning Goals: 16 Estuarine Resources; 17 Coastal Shorelands; 18 Beaches and Dunes; 19 Ocean Resources***

**Response:** Statewide planning Goals 16-19 relate to coastal lands in Oregon, which are not applicable within the planning jurisdiction of the City of Oregon City and are not applicable to the amendments.

## **VIII. DECISION-MAKING CRITERIA**

The remainder of this staff report provides additional findings to demonstrate that the proposed annexation code amendments are consistent with applicable approval criteria.

### **CHAPTER 17.50 ADMINISTRATION AND PROCEDURES**

#### ***17.50.050 – Pre-application conference.***

- A. *Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.*
  1. *To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
  2. *At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*
  3. *The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*
- B. *A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal Code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.*
- C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this Code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

**Finding:** Staff held the required pre-application conference meeting in August 2024.

#### ***17.50.055 - Neighborhood association meeting.***

*Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.*

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor*





site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

- B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.
- C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.
- D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.
- E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

**Finding:** Public works Staff presented the amendments to the Citizen Involvement Committee on October 7, 2024.

***17.50.070 - Completeness review and one hundred twenty-day rule.***

**Finding:** Staff submitted the Land Use Application on 9/19/2024. The Application was deemed Complete on 9/23/2024. Legislative actions are not subject to the 120-day deadline.

**CHAPTER 17.68 ZONING CHANGES AND COMPREHENSIVE PLAN AMENDMENTS**

***17.68.010 - Initiation of the amendment.***

*A text amendment to the Comprehensive Plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:*

- A. A resolution request by the City Commission;
- B. An official proposal by the Planning Commission;
- C. An application to the Planning Division; or.
- D. A Legislative request by the Planning Division.

*All requests for amendment or change in this title shall be referred to the Planning Commission.*

**Applicant's Response:** The Oregon City Public Works Department has made a Land Use Application on 9/19/2024 to the Planning Division.

**17.68.015 –Procedures.**

*Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.*

**17.68.020 - Criteria.**

*The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:*

- A. The proposal shall be consistent with the applicable goals and policies of the comprehensive Plan;*

**Finding:** The proposal is consistent with the applicable goals, policies and strategies of the OC2040 Comprehensive Plan that were addressed earlier in this report. As the existing Erosion and Sediment Control code is consistent with the goals and policies of the comprehensive plan, this code revision retitling these standards to Construction Site Runoff sustains the consistency with the goals and policies of the comprehensive plan. This application is for a zoning text amendment only there are no proposed change to zones or comprehensive plan designations.

- B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone or plan amendment, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone or plan amendment;*

**Finding:** This code revision further enhances the maintenance of public facilities and services by controlling construction runoff in addition to erosion and sediment control.

- C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district or plan amendment; and*

**Finding:** This code revision further enhances the maintenance of public facilities and services by controlling construction runoff in addition to erosion and sediment control.

- D. Statewide planning goals shall be addressed if the comprehensive Plan does not contain specific policies or provisions which control the amendment.*

**Finding:** The proposal is consistent with the applicable Statewide Planning Goals that were addressed earlier in this report. As the existing Erosion and Sediment Control code is consistent with the Statewide Planning Goals, this code revision retitling these standards to Construction Site Runoff is consistent with the relevant Statewide Planning Goals.

**17.68.025 - Zoning for land annexed into the City.**



*Upon annexation into the City, the property shall be rezoned from County zoning to the corresponding City zoning designation as identified in Table 17.06.030, provided the criteria for a zone change can be met.*

**Finding:** Zoning is not impacted by this code revision. No annexation is proposed.

**17.68.040 - Approval by the Commission.**

*If the Planning Commission finds that the request or application for an amendment, or change, complies with the criteria of OCMC 17.68.020, it shall forward its findings and recommendation to the City Commission for action thereon by that body.*

**Finding:** Applicant concurs with this requirement.

**17.68.050 - Conditions.**

*In granting a change in zoning classification to any property, the Commission may attach such conditions and requirements to the zone change as the Commission deems necessary in the public interest and such conditions and restrictions shall thereafter apply to the zone change or map amendment.*

**Finding:** Zoning is not impacted by this code revision.

**17.50.170 - Legislative hearing process.**

*A. Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use shall begin with a public hearing before the planning commission.*

**B. Planning Commission Review.**

*1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.*

*2. The Community Development Director's Report. Once the planning commission hearing has been scheduled and noticed in accordance with OCMC 17.50.090.C and any other applicable laws, the community development director shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.*

*3. Planning Commission Recommendation. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the*

*planning commission shall prepare and forward to the city commission a report and recommendation to that effect.*

**C. City Commission Review.**

*1. City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.*

*2. Notice of Final Decision. Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).*

**Finding:** The applicant understands the legislative process that applies to this proposal.

**17.50.090 - Public notices.**

*C. Notice of Public Hearing on a Legislative Proposal. At least twenty days prior to a public hearing at which a legislative proposal to amend or adopt the city's land use regulations or comprehensive plan is to be considered, the community development director shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, any affected recognized neighborhood associations and any party who has requested in writing such notice. Notice shall also be published on the city website. Notice issued under this subsection shall include the following information: 1. The time, date and location of the public hearing; 2. The city-assigned planning file number and title of the proposal; 3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed; 4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing; and 5. The name and telephone number of the planning staff person responsible for the proposal and who interested people may contact for further information.*

**Finding:** Public notice of this legislative proposal was provided to DLCD on September 23, 2024 in the form of a Post Acknowledgement Plan Amendment (PAPA). Public notice of the application submission was posted to the Projects page of the City website on October 3, 2024. Public Hearing Notices were emailed to stakeholders on October 3<sup>rd</sup> and 4<sup>th</sup>, as well.

As of October 18, 2024, no public comments have been received by Planning Staff related to this proposal.

## **IX. RECOMMENDATION**

Based on the findings in this report, staff recommends approval of amendments to OCMC 17.47 for Erosion and Sediment Control. Staff will prepare an Ordinance when the matter is before the City Commission for its consideration and adoption.

## **EXHIBITS:**

1. Proposed Code Amendments to Chapter 17.47
2. Redlines to Chapter 17.47
3. Public Comments
4. Letter from Josh Wheeler, Assistant City Engineer
5. October 7, 2024 CIC Presentation

## **Chapter 17.47 CONSTRUCTION SITE RUNOFF CONTROLS<sup>1</sup>**

### **17.47.010 Purpose.**

- A. The purpose of this chapter is to require erosion prevention measures, sediment control, and waste materials control practices for all development during construction to prevent and restrict the discharge of sediments and construction site wastes, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind and other mechanical means so that they will not be transported from the site. Sediment and waste materials control measures shall be designed to capture construction site wastes, and capture soil particles after they have become dislodged by erosion and attempt to retain the soil particles on-site.
- B. The objective of these measures is to control, at the source, construction site wastes as well as waterborne and airborne erosion and the air and water pollution that results from such erosion mechanisms. This chapter recognizes that all non-point discharges eventually end up in surface water bodies. This chapter is intended to control water quality degradation from construction and development activities and it applies in addition to any other applicable provision of this Code, state or federal law. This chapter is not intended to serve as a guideline for stormwater management control measures for already constructed developments.

### **17.47.030 Applicability.**

- A. This chapter, which may also be referred to as "construction site runoff controls" in this Code, applies to development that may cause discharge of construction site waste materials or the visible or measurable erosion on any property within the city limits of Oregon City.
- B. All development that results in 1,000 square feet of new or replaced impervious surface or 1,000 square feet of earth disturbance shall be subject to the construction site runoff controls requirements and the standards found within the Stormwater and Grading Design Standards as referenced in OCMC 13.12.
- CB. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

### **17.47.040 Abrogation and greater restrictions.**

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state or federal law, the provisions that are more restrictive shall govern. Where this document imposes restrictions that are more stringent than regional, state and federal law, the provisions of this document shall govern. However, nothing in this chapter shall relieve any party from the obligation to comply with any applicable federal, state or local regulations or permit requirements.

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<sup>1</sup>Editor's note(s)—Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.47 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.47 similar subject matter. See Ordinance Disposition List for derivation.

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### **17.47.050 Severability.**

The provisions of this chapter are severable. If any section, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this chapter.

### **17.47.060 Permit required.**

The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause visible or measurable erosion.

### **17.47.070 Erosion and sediment control plans.**

- A. An application for an erosion and sediment control permit shall include an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control construction site wastes and erosion prepared in compliance with City of Oregon City public works standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the city recorder.
- B. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:
  - 1. The erosion and sediment control plan meets the requirements of the City of Oregon City public works standards for construction site wastes and erosion and sediment control incorporated by reference as part of this chapter;
  - 2. The erosion and sediment control plan indicates that construction site wastes and erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that construction site wastes and erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.
- C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.
- D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.
- E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.
- F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion and the discharge of construction site wastes, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim construction site wastes and erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.

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- G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).

#### **17.47.080 Plan implementation.**

An approved erosion control and sediment control plan shall be implemented and maintained as follows:

- A. Plan approval, where required, shall be obtained prior to clearing or grading. No grading, clearing or excavation of land requiring a plan shall be undertaken prior to approval of the plan.
- B. The erosion and sediment control facilities shall be constructed prior to any clearing and grading activities, and maintained in such a manner as to ensure that sediment laden water does not enter the drainage system or violate applicable water standards.
- C. The implementation of an erosion and sediment control plan and the construction, maintenance, replacement, and upgrading of erosion and sediment control facilities is the responsibility of the owner or his/her designated representative until all construction is completed and approved, and vegetation, landscaping or approved finished surfaces is established.
- D. The erosion and sediment control facilities herein are the minimum requirements for anticipated site conditions. During the construction period, these construction site waste management controls and erosion and sediment control facilities shall be upgraded as needed for unexpected storm events and to ensure that sediment or pollutant-laden water does not leave the site.
- E. Any observation of visible or measurable discharges of construction site wastes or erosion, or an observation of more than a ten-percent increase in downstream channel turbidities, will result in an enforcement action by the city.
- F. The owner or his/her designated representative shall implement the measures and construct facilities as provided for and according to the implementation schedule in the approved plan. The manager shall be allowed reasonable access to the development site for inspection purposes.

#### **17.47.090 Plan performance guarantee and security.**

After the plan is approved by the manager and prior to construction or grading, the owner shall provide a financial guarantee. Management of construction site waste as well as erosion and sediment control shall be included in the cost estimate for the primary project, such as land division or site plan, and included in that project's performance guarantee.

#### **17.47.100 Correction of ineffective measures and enforcement.**

- A. If the owner or his/her designated representative fails to follow the plan as approved by the manager or fails to submit a plan when one is required, the manager may, after inspecting the property, issue a stop work order halting all work on the development site until the requirements of the plan are met or implemented as applicable.

Accompanying the stop work order shall be a written statement or list from the manager specifying what is wrong and what steps the owner must take to bring the development into compliance. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for erosion and sediment control and are approved by the manager.

- B. If the facilities and techniques in the approved plans are not effective or sufficient to meet the purposes of this chapter, based on an on-site inspection, the Manager may require a revision to the plan. Such

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requirement shall be in writing and shall explain the problem and suggested measures to remedy the problem. The notice shall be presented to the owner and any other responsible parties.

1. The revised plan shall be provided within three business days of when written notification by the manager is received. Receipt of such notice shall be deemed complete three days after simultaneous regular mail and certified mail is deposited in the mail.
  2. The owner or his/her designated representative shall implement fully the revised plan within three business days of receipt of the revised plan as provided in the previous subdivision, or within such other time frame as the manager may specify.
  3. In cases where significant erosion is occurring, the manager may require the owner or his/her designated representative to install immediately interim control measures before submittal of revised plan.
  4. If there is a confirmed or imminent threat of significant off-site erosion, or the offsite discharge of construction site wastes, the manager shall issue a stop work order, upon issuance of which work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for construction site runoff control and are approved by the manager.
- C. Enforcement. Erosion that migrates off of a development site is considered to be a nuisance that threatens the health, safety and welfare of the citizens of Oregon City and is a violation of this chapter. Any owner who violates, or is responsible for a violation of this chapter or an approved plan, shall be subject to the enforcement procedures of this Code including by the code enforcement officer.

## Chapter 17.47 ~~EROSION AND SEDIMENT CONTROL~~ CONSTRUCTION SITE RUNOFF CONTROLS<sup>1</sup>

### 17.47.010 Purpose.

- A. The purpose of this chapter is to require erosion prevention measures ~~and~~ sediment control, ~~and waste materials control~~ practices for all development during construction to prevent and restrict the discharge of sediments ~~and construction site wastes~~, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind and other mechanical means so that they will not be transported from the site. Sediment ~~and waste materials~~ control measures shall be designed to capture ~~construction site wastes, and capture~~ soil particles after they have become dislodged by erosion and attempt to retain the soil particles on-site.
- B. The objective of these measures is to control, at the source, ~~construction site wastes as well as~~ waterborne and airborne erosion and the air and water pollution that results from such erosion mechanisms. This chapter recognizes that all non-point discharges eventually end up in surface water bodies. This chapter is intended to control water quality degradation from construction and development activities and it applies in addition to any other applicable provision of this Code, state or federal law. This chapter is not intended to serve as a guideline for stormwater management control measures for already constructed developments.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

### 17.47.030 Applicability.

- A. This chapter, which may also be referred to as "~~erosion~~construction site runoff controls" in this Code, applies to development that may cause discharge of ~~construction site waste materials or the~~ visible or measurable erosion on any property within the city limits of Oregon City.
- B. ~~All development that results in 1,000 square feet of new or replaced impervious surface or 1,000 square feet of earth disturbance shall be subject to the construction site runoff controls requirements and the standards found within the Stormwater and Grading Design Standards as referenced in OCMC 13.12.~~
- CB. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

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<sup>1</sup>Editor's note(s)—Ord. No. 08-1014, adopted July 1, 2009, repealed Chapter 17.47 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Chapter 17.47 similar subject matter. See Ordinance Disposition List for derivation.



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#### **17.47.040 Abrogation and greater restrictions.**

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state or federal law, the provisions that are more restrictive shall govern. Where this document imposes restrictions that are more stringent than regional, state and federal law, the provisions of this document shall govern. However, nothing in this chapter shall relieve any party from the obligation to comply with any applicable federal, state or local regulations or permit requirements.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

#### **17.47.050 Severability.**

The provisions of this chapter are severable. If any section, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

#### **17.47.060 Permit required.**

The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause visible or measurable erosion.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

#### **17.47.070 Erosion and sediment control plans.**

- A. An application for an erosion and sediment control permit shall include an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control **construction site wastes and** erosion prepared in compliance with City of Oregon City public works standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the city recorder.
- B. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:
  - 1. The erosion and sediment control plan meets the requirements of the City of Oregon City public works standards for **construction site wastes and** erosion and sediment control incorporated by reference as part of this chapter;
  - 2. The erosion and sediment control plan indicates that **construction site wastes and** erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that **construction site wastes and** erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.
- C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.

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- D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.
  - E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.
  - F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion and the discharge of construction site wastes, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim construction site wastes and erosion and sediment control measures as specified in the City of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.
  - G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.).

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

#### **17.47.080 Plan implementation.**

An approved erosion control and sediment control plan shall be implemented and maintained as follows:

- A. Plan approval, where required, shall be obtained prior to clearing or grading. No grading, clearing or excavation of land requiring a plan shall be undertaken prior to approval of the plan.
- B. The erosion and sediment control facilities shall be constructed prior to any clearing and grading activities, and maintained in such a manner as to ensure that sediment laden water does not enter the drainage system or violate applicable water standards.
- C. The implementation of an erosion and sediment control plan and the construction, maintenance, replacement, and upgrading of erosion and sediment control facilities is the responsibility of the owner or his/her designated representative until all construction is completed and approved, and vegetation, landscaping or approved finished surfaces is established.
- D. The erosion and sediment control facilities herein are the minimum requirements for anticipated site conditions. During the construction period, these construction site waste management controls and erosion and sediment control facilities shall be upgraded as needed for unexpected storm events and to ensure that sediment or pollutant-laden water does not leave the site.
- E. Any observation of visible or measurable discharges of construction site wastes or erosion, or an observation of more than a ten-percent increase in downstream channel turbidities, will result in an enforcement action by the city.
- F. The owner or his/her designated representative shall implement the measures and construct facilities as provided for and according to the implementation schedule in the approved plan. The manager shall be allowed reasonable access to the development site for inspection purposes.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

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### **17.47.090 Plan performance guarantee and security.**

After the plan is approved by the manager and prior to construction or grading, the owner shall provide a financial guarantee. **Management of construction site waste as well as e**Erosion and sediment control shall be included in the cost estimate for the primary project, such as land division or site plan, and included in that project's performance guarantee.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

### **17.47.100 Correction of ineffective measures and enforcement.**

- A. If the owner or his/her designated representative fails to follow the plan as approved by the manager or fails to submit a plan when one is required, the manager may, after inspecting the property, issue a stop work order halting all work on the development site until the requirements of the plan are met or implemented as applicable.

Accompanying the stop work order shall be a written statement or list from the manager specifying what is wrong and what steps the owner must take to bring the development into compliance. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for erosion and sediment control and are approved by the manager.

- B. If the facilities and techniques in the approved plans are not effective or sufficient to meet the purposes of this chapter, based on an on-site inspection, the Manager may require a revision to the plan. Such requirement shall be in writing and shall explain the problem and suggested measures to remedy the problem. The notice shall be presented to the owner and any other responsible parties.
1. The revised plan shall be provided within three business days of when written notification by the manager is received. Receipt of such notice shall be deemed complete three days after simultaneous regular mail and certified mail is deposited in the mail.
  2. The owner or his/her designated representative shall implement fully the revised plan within three business days of receipt of the revised plan as provided in the previous subdivision, or within such other time frame as the manager may specify.
  3. In cases where significant erosion is occurring, the manager may require the owner or his/her designated representative to install immediately interim control measures before submittal of revised plan.
  4. If there is a confirmed or imminent threat of significant off-site erosion, **or the offsite discharge of construction site wastes**, the manager shall issue a stop work order, upon issuance of which work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for **construction site runoff erosion and sediment** control and are approved by the manager.
- C. Enforcement. Erosion that migrates off of a development site is considered to be a nuisance that threatens the health, safety and welfare of the citizens of Oregon City and is a violation of this chapter. Any owner who violates, or is responsible for a violation of this chapter or an approved plan, shall be subject to the enforcement procedures of this Code including by the code enforcement officer.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

## NOTICE OF PUBLIC HEARING

The City of Oregon City Planning Commission will hold a public hearing regarding the adoption of Ordinance Number 24-1008 (Planning File GLUA-24-000026 / LEG-24-00003 / ZC-24-00002) to consider the adoption of text amendments to Oregon City Municipal Code, Chapter 17.47. The City Commission will hold public hearings on the matter once the Planning Commission has made a recommendation.

**When:** 7:00 p.m., October 28, 2024

**Where:** Commission Chambers at the Robert Libke Public Safety Building, 1234 Linn Avenue, Oregon City 97045 and virtually unless otherwise noticed.

For a full copy of the proposal one week prior to hearings, visit [www.orcity.org/meetings](http://www.orcity.org/meetings). Any interested party may testify at the hearings or submit written comments to [jthaddaeus@orcify.org](mailto:jthaddaeus@orcify.org) at or prior to the public hearings while the record is open. Additional information may be found by calling (503) 722-3789.

**FILE NUMBER:** GLUA 24-000026 / LEG 24-00003 / ZC-24-00002

**REQUEST:** Amendments to the Oregon City Municipal Code, Chapter 17.47 – Erosion and Sediment Control for compliance with Oregon DEQ regulations related to the City’s Municipal Separate Storm Sewer System (MS4) permit.

**PROJECT PAGE:**

<https://oregoncity.teammunicode.com/communitydevelopment/project/glua-24-00026-leg-24-00003-zc-24-00002>

**CONTACT PERSON:** Jude Thaddaeus, Assistant Planner (503) 722-3789 or [jthaddaeus@orcify.org](mailto:jthaddaeus@orcify.org)

**CITY NEIGHBORHOOD ASSN:** City Wide

# Overview of LEG-24-00003: Text Amendments to OCMC 17.47 - Erosion & Sediment Control

Planning Staff

November 18, 2024



# GLUA-24-00026: LEG-24-00003 – OCMC 17.47 Text Amendments

Process	Proposal
<ul style="list-style-type: none"><li>• Legislative Type IV Process</li><li>• Public Hearings<ul style="list-style-type: none"><li>• Planning &amp; City Commissions</li><li>• Number of hearings at discretion of each hearings body</li></ul></li><li>• Disclosures of <i>ex parte</i> conversations <b>is not</b> required in Legislative process. Disclosures of conflict of interest <b>is</b> required.</li><li>• Public Comment Matrix - updated each hearing</li></ul>	<ul style="list-style-type: none"><li>• Adopt new code language in OCMC 17.47 to address and include construction site runoff.</li><li>• Adoption is necessary to comply with Oregon DEQ requirements for Oregon City’s MS4 permit to include code that explicitly addresses construction site runoff in addition to erosion and sediment control.</li><li>• Construction site runoff is currently addressed in the City’s Stormwater and Grading Design Standards, which requires owners to operate and maintain stormwater management systems that address water quality and water volumes.</li><li>• No regulatory changes to the way erosion, sediment control, and construction site runoff management are proposed with this text amendment.</li></ul>



## OCMC 17.47 Text Amendments

# Criteria for Approval

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- Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments
- Oregon City Comprehensive Plan (OC2040)
  - Applicable goals and policies
- State Lands Use Goals

*Staff has provided a staff report with draft findings for the above criteria. The staff report can be updated to incorporate additional Planning Commission comments and findings before being forwarded to the City Commission.*



## OCMC 17.47 Text Amendments

# Recommendation & Options

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- *Staff Recommends that the Planning Commission recommend approval of the amendments to OCMC 17.47.*
- **Planning Commission Options**
  - Recommend approval of LEG-24-00003 as proposed.
  - Recommend approval of LEG-24-00003 with specific revisions.
  - Do not recommend approval of LEG-24-00003 and provide direction to Staff.



## OCMC 17.47 Text Amendments





# OCMC 17.47 – Erosion & Sediment Control

**Defining Construction site waste and pollution**

**By Marcos Kubow –Water Quality Coordinator, M.S.**

**October 28th, 2024**





# Agenda

1. What are we amending?
2. Why are we amending?
3. How does this impact City operations?





# Chapter 17.47 – Erosion & Sediment Control

- Adding statements on construction waste & pollution
- Addresses pollution beyond sediment
- Only reinforces what we already practice & puts it in writing

Title 17 - ZONING  
Chapter 17.47 EROSION AND SEDIMENT CONTROL

## Chapter 17.47 ~~EROSION AND SEDIMENT CONTROL~~ CONSTRUCTION SITE RUNOFF CONTROLS<sup>1</sup>

### 17.47.010 Purpose.

- A. The purpose of this chapter is to require erosion prevention measures **and** sediment control, **and waste materials control** practices for all development during construction to prevent and restrict the discharge of sediments **and construction site wastes**, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind and other mechanical means so that they will not be transported from the site. Sediment **and waste materials** control measures shall be designed to capture **construction site wastes, and capture** soil particles after they have become dislodged by erosion and attempt to retain the soil particles on-site.
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(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

### 17.47.030 Applicability.



# **NPDES MS4 Permit Compliance**

- **Makes enforcement language broader**
- **Required by our stormwater permit (NPDES MS4)**
- **Legally supports current enforcement practices**





# Amendment Impacts

- **No changes to Oregon City development and Construction practices**
- **All necessary parties are aware and understand the changes**







# THANK YOU

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