

Laura Terway

From: James Nicita <james.nicita@gmail.com>
Sent: Monday, May 14, 2018 2:43 PM
To: Laura Terway
Subject: Comment on file PC 18-068, Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beavercreek Road and Highway 213 (Tentative Decision).
Attachments: Resolution No 15-14.pdf; Res. 15-14 Staff Report.pdf; Ord 15-1006.stormwater_standards.pdf; Ord 15-1006 Staff Report.pdf

Ms. Terway:

I write to comment on file PC 18-068, Remand of Land Use Board of Appeals Court Decision for Planning Files PZ 15-01: Comprehensive Plan Amendment and ZC 15-03: Zone Change Located near Beavercreek Road and Highway 213 (Tentative Decision).

As an initial matter, pursuant to ORS 197.763(6), I respectfully request that the Planning Commission's hearing tonight be continued and the record held open. I would like to present additional evidence, however I am out of state right now and cannot attend tonight's Planning Commission hearing.

However I do have a first set of comments to submit via email. I respectfully request that these comments and the associated evidence be submitted into the record of these proceedings.

The City is relying almost exclusively on its 2015 Stormwater and Grading Design Standards to establish its compliance with Goal 5. These standards were adopted by Resolution 15-14, pursuant to Oregon City Municipal Code (OCMC) Chapter 13.12. OCMC Chapter 13.12, in turn, was enacted pursuant to Ordinance 15-1006. The date of both these measures was May 20, 2015. Ordinance 15-006, and Resolution 15-14, as well as their respective staff reports, are attached.

The City cannot rely on the 2015 Stormwater and Grading Design Standards to establish compliance with Goal 5. Nothing in either Ordinance 15-1006 or Resolution 15-14 establishes compliance with Goal 5. In fact, Ordinance 15-1006 specifically references adoption pursuant to Goal 11, but it makes no reference to Goal 5.

Furthermore, both Ordinance 15-1006 and Resolution 15-14 reference the City's National Pollution Discharge Elimination (NPDES) Municipal Separate Storm Sewer Permit (MS4). NPDES permits are issued by the Oregon Department of Environmental Quality (DEQ). They are land use decisions under ORS 197.180, OAR 660-031-0026(2)(b)(B) and under DEQ's State Agency Coordination Program.

There is no evidence in the record that DEQ has ever made findings indicating that either Oregon City's NPDES MS4 permit or the 2015 Stormwater and Grading Design Standards comply with Goal 5.

Thank you for your consideration of these comments. Please acknowledge receipt and please confirm that these comments and attachments will be entered into the record of tonight's Planning Commission meeting.

James Nicita
Oregon City



City of Oregon City

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

Staff Report

File Number: 15-295

Agenda Date: 5/20/2015

Status: Agenda Ready

To: City Commission

Agenda #: 7g.

From: Public Works Director John Lewis

File Type: Resolution

SUBJECT:

Resolution No.15-14, Adopting City of Oregon City Public Works Stormwater and Grading Design Standards and Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual Coupled With an Oregon City Addendum

RECOMMENDED ACTION (Motion):

Staff is recommending a resolution adopting the recent revisions to the City's Public Works Stormwater and Grading Design manual in order to comply with parts the City's National Pollution Discharge Elimination Systems Permit (NPDES) from the Oregon Department of Environmental Quality (DEQ) and the Federal Environmental Protection Agency (EPA). Additionally, staff recommend to concurrently adopt the revised Clackamas Erosion Prevention and Sediment Control Planning and Design Manual and Oregon City Addendum.

BACKGROUND:

Stormwater management is a key element in maintaining and enhancing livability within the City of Oregon City. Properly managing stormwater is vital to protecting our water resources for a great number of uses, including fish and wildlife habitat, recreation, and drinking water.

The goal of these updated standards is to provide local engineers, developers, builders, and City staff clear guidance in planning and designing stormwater conveyance and management systems that are appropriate to the local climate, hydrogeology, and geology. These standards apply to public and private projects throughout the City and are required under the City's existing NPDES Permit. The primary changes to the standards required to the City to address two key aspects of stormwater management; addressing hydro modification and increasing water quality. These two principles can be addressed by actively promoting Low Impact Development as the preferred standard, where feasible, within Oregon City.

Staff has already conducted one developer outreach workshop, presented the modifications to the City's Natural Resource Committee and the Citizen Involvement Committee, all of which have recommend supporting the revisions.

This resolution is in conjunction with Ordinance No. 15-1006, Adopting Amendments to Oregon City Municipal Code Chapter 13.12, Stormwater Management.

RESOLUTION No. 15-14

A RESOLUTION ADOPTING CITY OF OREGON CITY PUBLIC WORKS STORMWATER AND GRADING DESIGN STANDARDS AND CLACKAMAS COUNTY EROSION PREVENTION AND SEDIMENT CONTROL PLANNING AND DESIGN MANUAL COUPLED WITH AN OREGON CITY ADDENDUM

WHEREAS, in 1999, the City of Oregon City adopted Public Works Stormwater and Grading Design Standards, to be incorporated as part of the City's Drainage Master Plan, dated January 1988; and

WHEREAS, the 1999 Public Works Stormwater and Grading Design Standards, setting forth standards applicable to the design of stormwater drainage facilities are outdated and in need of revision; and

WHEREAS, Oregon City Municipal Code Section 13.12.020 authorizes the City Commission to adopt amended stormwater standards through adoption of a resolution; and

WHEREAS, the standards are intended for use by property owners, developers, and design professionals as general design guidelines for all publicly and privately-owned and maintained stormwater management facilities within the City; and

WHEREAS, the proposed standards represent specific guidelines for implementing City stormwater goals and policies in the Comprehensive Plan; and

WHEREAS, the City of Oregon City adopted Ordinance 15-1006 to address the problems identified above by amending Oregon City Code; Chapter 13.12, entitled Stormwater Management; and

WHEREAS, in 2008, Clackamas County issued a multi-jurisdictional Erosion Prevention and Sediment Control Planning and Design Manual to provide a comprehensive and detailed approach toward controlling erosion on construction sites to assess those performing work in Oregon City; and

WHEREAS, the City of Oregon City developed an addendum to the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual to make minor modifications to suit the needs of Oregon City; and

WHEREAS, the adoption of Public Works Stormwater and Grading Design Standards and the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, along with the addendum, will contribute to the safeguarding of human life, the protection of property and the improvement of water quality.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of Oregon City that:

Section 1. The City hereby adopts the City of Oregon City Public Works Stormwater and Grading Design Standards, dated February, 2015, and attached hereto as Exhibit 'A.' The Public Works Stormwater and Grading Design Standards implement Ordinance 15-1006, which enacted new Chapters 13.12 of the Oregon City Municipal Code.

Section 2. The City further hereby adopts the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual, attached hereto as Exhibit 'B,' along with the addendum attached hereto as Exhibit 'C.'

Section 3. Look-back. Within one year after these standards take effect, the City's Public Works staff shall compile and present an impact report to the City Commission explaining how implementation of these provisions have affected the overall cost of development activities within the City. From that report, the City Commission may make further amendments.

Section 4. Severability. If any provision of this Resolution or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable.

Section 5. Effectiveness. This Resolution shall take effect 90 days from the date of adoption.

Read and adopted at a regular meeting of the City Commission held on the 20th day of May, 2015.

DAN HOLLADAY, Mayor

Attested to this 20th day of May 2015:

Approved as to legal sufficiency:

Kattie Riggs, City Recorder

City Attorney

Exhibits:

A: City of Oregon City Public Works Stormwater and Grading Design Standards

B: Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual

C: City of Oregon City Addendum to the Clackamas County Erosion Prevention and Sediment Control Planning and Design Manual

GSB:7005802.1



City of Oregon City

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

Staff Report

File Number: 15-294

Agenda Date: 5/20/2015

Status: Agenda Ready

To: City Commission

Agenda #: 7f.

From: Public Works Director John Lewis

File Type: Ordinance

SUBJECT:

Second Reading of Ordinance No. 15-1006, Adopting Amendments to Oregon City Municipal Code Chapter 13.12, Stormwater Management

RECOMMENDED ACTION (Motion):

Staff recommends the City Commission approve the second reading of Ordinance No. 15-1006, adopting amendments to the Oregon City Municipal Code Chapter 13.12, Stormwater Management.

BACKGROUND:

The City is required to revise and update its stormwater management program in order to comply with the permit requirements under the City's National Pollution Discharge Elimination Systems Permit (NPDES) from the Oregon Department of Environmental Quality (DEQ) and the Federal Environmental Protection Agency (EPA). This ordinance amends OCMC Section 13.12, Stormwater Management to correspond with the revised Public Works Stormwater and Grading Design Standards and Erosion Prevention and Sediment Control Planning Manual, which are being adopted through a separate resolution.

The purpose of OCMC Chapter 13.12 is to define policies, minimum requirements, minimum standards and design procedures and permits for the construction and maintenance of stormwater conveyance and quantity and quality control facilities. It accomplishes this by:

- Minimizing increased stormwater runoff rates from new development so as to minimize the impact upon any downstream natural channel that may exist between the subject area and the Willamette or Clackamas Rivers;
- Preventing water runoff generated by development from exceeding the capacity of downstream stormwater facilities;
- Reducing stormwater runoff rates and volumes, soil erosion and pollution, wherever possible, from developed and developing lands;
- Preventing the uncontrolled or irresponsible discharge of stormwater from new development onto adjoining public or private property;
- Maintaining the integrity of stream channels for their biological functions, as well as for drainage and other purpose.

This chapter is being amended in order to correspond with changes being made within the Public Works Departments key stormwater management documents including the Public Works Stormwater and Grading Design Standards and Erosion Prevention and Sediment Control Planning Manual.

The first reading was approved at the May 6, 2015 City Commission meeting, and staff is now recommending approval of the second reading of the ordinance.

ORDINANCE NO. 15-1006

AN ORDINANCE ADOPTING AMENDMENTS TO OREGON CITY MUNICIPAL CODE CHAPTER 13.12, STORMWATER MANAGEMENT.

WHEREAS, the City of Oregon City needs a legal mechanism to require the provision of adequate drainage facilities and adequate grading and land clearing practices in the development and use of property in conformation with current accepted standards for the design of drainage facilities and grading operations; and

WHEREAS, an expanded population and increased development of land in the City of Oregon City, coupled with inadequate drainage controls, has led to problems related to land clearing, grading, and stormwater runoff impacts; and

WHEREAS, these problems include increased sedimentation in ponds, creeks, and streams, water quality degrading and deterioration of existing stream channels; and

WHEREAS, inadequate surface and subsurface drainage planning and practice can lead to erosion and property damage and risk to life; and

WHEREAS, future problems will be reduced if land developments, both public and private, provide for adequate drainage of property, and adequate grading of slopes; and

WHEREAS, Statewide Planning Goal 11 requires local jurisdictions 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, and are necessary for an effective level of future urban development within the City Limits; and

WHEREAS, the proposed amendments meet federal and state National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permitting requirements; and

WHEREAS, the proposed amendments will minimize the introduction of pollutants and provide water quality treatment of stormwater runoff to preserve the beneficial uses of drainageways, lakes, ponds, wetlands, and other sensitive areas; and

WHEREAS, the proposed amendments protect the health, safety and welfare of persons and property by safely conveying all stormwater runoff from site development and preventing the uncontrolled or irresponsible discharge of stormwater onto adjoining public or private property.

NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:

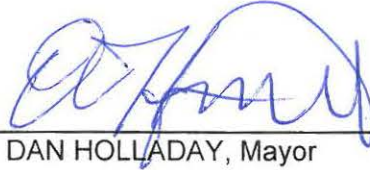
NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:

Section 1. The City hereby replaces the existing Oregon City Municipal Code Chapter 13.12, entitled Stormwater Management, and replaces it with the amended Chapter 13.12, attached hereto as Exhibit 'A.'

Section 2. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

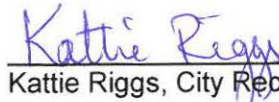
Section 3. Effectiveness. This Ordinance shall take effect 90 days from the date of adoption.

Read for the first time at a regular meeting of the City Commission held on the 6th day of May, and the City Commission finally enacted the foregoing ordinance this 20th day of May, 2015.



DAN HOLLADAY, Mayor

Attested to this 20th day of May 2015:



Katie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney

Exhibits:

Exhibit A – Amended Chapter 13.12, entitled Stormwater Management

GSB:7008052.1

Chapter 13.12 STORMWATER MANAGEMENT

Chapter 13.12 STORMWATER MANAGEMENT

Sections:

[13.12.010 Purpose.](#)

[13.12.020 Adoption of standards.](#)

[13.12.030 Superseding Oregon City Drainage Master Plan Appendix A.](#)

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[13.12.080 Submittal requirements.](#)

[13.12.090 Approval criteria for engineered drainage plans and drainage report.](#)

[13.12.100 Alternative materials, alternative design and methods of construction.](#)

[13.12.110 Transfer of engineering responsibility.](#)

[13.12.120 Standard Construction Specifications.](#)

[13.12.130 Administrative provisions.](#)

[13.12.140 Maintenance of public stormwater facilities.](#)

[13.12.150 Penalties and enforcement.](#)

[13.12.160 Hazardous conditions.](#)

[13.12.170 Permits from other jurisdictions.](#)

[13.12.180 Violation—Penalty.](#)

13.12.010 Purpose.

The purpose of this chapter is to define policies, minimum requirements, minimum standards and design procedures and permits for the construction and maintenance of stormwater conveyance and quantity and quality control facilities in order to:

- A. Minimize increased stormwater runoff rates from any development so as to minimize the impact upon any downstream natural channel that may exist between the subject area and the Willamette or Clackamas Rivers;
- B. Prevent water runoff generated by development from exceeding the capacity of downstream stormwater facilities;
- C. Reduce stormwater runoff rates and volumes, soil erosion and pollution, wherever possible, from developed and developing lands;
- D. Prevent the uncontrolled or irresponsible discharge of stormwater from new development onto adjoining public or private property;
- E. Maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;

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- F. Have stormwater conveyance facilities of adequate design to manage all volumes of water generated in the contributing drainage area, for both the existing condition and the anticipated future condition;
- G. Have all stormwater facilities:
 - 1. Designed to mimic natural hydrologic conditions, to the maximum extent practicable,
 - 2. Designed in a manner to allow economical future maintenance,
 - 2. If city owned or maintained, designed for maintenance with city owned equipment,
 - 3. Designed using materials that will ensure a minimum practical design life of seventy-five years, and
 - 4. Designed to have sufficient structural strength to resist erosion and all external loads (construction, traffic, seismic) which may be imposed;
- H. Establish maintenance easements with the owners of privately owned/maintained stormwater facilities to ensure an appropriate level of maintenance and to help minimize public safety hazards;
- I. Have all new stormwater facilities comply with applicable National Pollutant Discharge Elimination System (NPDES) requirements;
- J. Minimize the deterioration of existing watercourses, culverts, bridges, dams and other structures;
- K. Minimize increases in stormwater pollution; and
- L. Allow for periodic inspections of both private and public stormwater quantity control and quality control facilities to verify that they are functioning in substantial conformance with the approved design intent.
- M. Allow issuance of engineering permits for stormwater work in the right-of-way or public easements either as a separate Public Works permit or as part of overall issued public infrastructure construction plans. The various fees for these permits are approved and modified from time to time by the city commission. Failure to meet the conditions of the issued permit shall constitute a violation of the Municipal Code. (Ord. 99-1029 [§2](#) (part), 1999)

(Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

13.12.020 Adoption of standards.

The city commission may establish and modify from time to time by resolution Public Works Stormwater and Grading Design Standards to implement the requirements of this chapter.

(Ord. 99-1029 §2 (part), 1999)

13.12.030 Superseding Oregon City Drainage Master Plan Appendix A.

The policies and standards of this chapter are intended to be consistent with the applicable sections of the Oregon City Drainage Master Plan dated January 1988, and applicable basin master plans, for land drainage and flood control within the Oregon City urban growth area, as adopted by the city. Appendix A of the Oregon City Drainage Master Plan dated January 1988 is superseded by the Public Works Stormwater and Grading Design Standards adopted by resolution and as periodically amended.

(Ord. 99-1029 §2 (part), 1999)

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13.12.040 Definitions.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Applicant" means a person, party, firm, corporation or other legal entity that has applied for a development permit or approval.

"Bulk petroleum storage" means storage of any type of bulk liquid petroleum or petroleum waste materials stored outside in multiple above ground storage tanks (AST). Multiple ASTs include two or more tanks that are either within the same secondary containment structure or within twenty feet of each other.

"Catch basin" means a structure, normally with a sump, for receiving drainage from a gutter or median and discharging the water through a conduit.

"City" means the City of Oregon City.

"City engineer" means the city engineering manager, their duly authorized representative(s), or the city's duly authorized representative(s) as designated by the city manager.

"Clearing" means surface removal of vegetation.

"Constructed wetlands" means wetlands developed as a water quality or quantity facility, subject to maintenance and modification as such. These areas must be clearly defined and/or separated from naturally occurring wetlands or wetlands created for mitigation purposes.

"Contributing drainage area" means the subject property together with the land area contributing runoff to it.

"Conveyance" means a channel or conduit to move water from one point to another point.

"Culvert" means a hydraulically short conduit that conveys surface drainage in artificial or natural watercourses through a roadway embankment or past some other type of flow obstruction.

"Dam" means a water storage structure that may or may not meet Oregon Revised Statute (ORS) requirements for height and storage capacity. All such structures require professional engineer design. If the water storage structure exceeds the ORS criteria for height or storage capacity, then the Oregon State Water Resources Commission shall have approval authority.

"DEQ" means the Oregon Department of Environmental Quality.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to, the construction of building or other structures, utility infrastructure, grading, streets or other structures or facilities, mining, dredging, paving, filling or excavation. Development does not include the following: (1) stream enhancement or restoration projects approved by the city; (2) farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter.

"Disturb" means man-made changes to the existing physical status of the land that are made in connection with development.

"Drainage feature" means any natural or man-made structure, facility, conveyance or topographic feature which has the potential to concentrate, convey, detain, retain, infiltrate or affect the flow rate of stormwater runoff.

"DSL" means the Oregon Division of State Lands.

"Easement" means the legal right to use a parcel of land for a particular purpose. It does not include fee ownership, but may restrict the owner's use of the land.

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"Embankment" means a raised structure of earth, gravel or similar material above the surrounding grade.

"Engineer" means a registered professional engineer licensed by the state of Oregon.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature that has been degraded by human activity. Enhancement activities may or may not return the site to a predisturbance condition, but create/recreate processes and features that occur naturally.

"Erosion" means the movement of soil particles resulting from actions of water, wind or mechanical means.

"Excavation" means the mechanical removal of earth material.

"Fill" means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed for the purposes of development or redevelopment.

"Floodplain" means the land area identified and designated by the United States Army Corps of Engineers, the Oregon Division of State Lands, the Federal Emergency Management Agency or City of Oregon City that has been or may be covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.

"Fuel dispensing facilities" means the area (including fuel islands, above ground fuel tanks, fuel pumps, and the surrounding pad) where fuel is transferred from bulk storage tanks to vehicles, equipment, and/or mobile containers.

"Grading" means any excavating, filling, embanking or altering contours of earth material.

"Grubbing" means the removal of vegetative matter from below the surface of the ground, such as sod, stumps, roots, buried logs or other debris, and shall include the incidental removal of topsoil to a depth not exceeding twelve inches.

"Impervious surfaces" means a hard surface area which prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater than natural quantities or at an increased rate. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots, concrete or asphalt paving, gravel surfaces with compacted subgrade, packed earthen materials and oiled macadam or other surfaces which similarly impede the infiltration of stormwater. Open, uncovered stormwater management facilities shall not be considered impervious surfaces.

"Inlet" means a connection between the surface of the ground and a drain or sewer for the admission of surface and stormwater runoff.

"Maintenance" means any activity that is necessary to keep an existing stormwater facility in good working order so as to function as designed. Maintenance includes complete reconstruction of a stormwater facility, if needed to return the facility to good working order. Maintenance also includes the correction of any problem on the site property that may directly impact the function of the stormwater facilities.

"Maintenance easement" means a binding agreement between the city and the person or persons holding title to a property served by a stormwater facility where the property owner promises to maintain certain stormwater facilities; grants the city the right to enter the subject property to inspect and make certain repairs, or perform certain maintenance procedures on the stormwater control facilities when such repairs or maintenance have not been performed by the property owner; and promises to reimburse the city for the cost should the city perform such repairs or maintenance.

"NPDES" means the National Pollutant Discharge Elimination System. A national permit system that covers discharges to waters of the United States and is enforced under the Federal Water Pollution Control Act, commonly known as the Clean Water Act.

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"Owner or property owner" means the person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

"Parcel" means a single unit of land that is created by a partitioning of land (ORS 92.010(7)).

"Plans" mean the construction documents and specifications, including system site plans, storm drain plans and profiles, cross sections, detailed drawings, etc. or reproductions thereof, approved or to be approved by the city, county, or state. They will show the location, character, dimensions and details for the work to be done.

"Private stormwater facility" means a stormwater facility located on private property and maintained by private property owners.

"Professional engineer" means a registered professional engineer licensed by the state of Oregon..

"Project engineer" means the professional engineer responsible for the project, who will affix his/her seal on the project drainage plans and drainage analysis and supervise construction of the stormwater facilities. The project engineer shall be licensed in the state of Oregon and qualified by experience or examination.

"Public stormwater facility" means any stormwater facility in the public right-of-way or easement operated and maintained by the city, county or state.

"Record drawings" means a set of engineering or site drawings that show how the project was constructed and what materials were used. Record drawings are signed and dated by the project engineer.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

"Right-of-way" means all land, or interest therein, which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for, or dedicated to, the use of the general public.

"Sedimentation" means the process of gravity deposition of water suspended matter; the process of depositing soil particles, clays, sands and other sediment that were picked up by stormwater runoff.

"Solid waste storage area" means a place where solid waste containers are stored. Solid waste containers include trash compactors, solid waste dumpsters and garbage cans.

"Stormwater" means the surface water runoff that results from all natural forms of precipitation.

"Stormwater facility" means a component of a man-made drainage feature, or features designed or constructed to perform a particular function or multiple functions related to stormwater management. Includes, but is not limited to, pipes, swales, ditches, culverts, street gutters, rain gardens, pervious pavements, green roofs, ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators and sediment basins. Stormwater facilities shall not include building gutters, downspouts, and drains serving one single-family residence.

"Stormwater management" means a program to provide surface water quality and quantity controls through structural and non-structural methods and capital improvement projects. Nonstructural controls include, but are not limited to, maintenance of stormwater facilities, public education, water quality monitoring, and preparation of agreements, ordinances, and regulations.

"Stormwater quality control" means the control of the introduction of pollutants into stormwater and the process of separating pollutants from stormwater.

"Stormwater quantity control" means the control of the rate and/or volume of stormwater released from a development site.

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"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

"Structure(s)" means a building or other major improvement that is built, constructed or installed, and it also means manmade improvements to land that are used, or expected to be used, in the operation of a utility. It includes buildings, utility lines, manholes, catch basins, driveways and sidewalks. It does not include minor improvements, such as fences, utility poles, flagpoles or irrigation system components that are not customarily regulated through zoning codes.

"Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter with some degree of regularity. Such flow must be in a definite direction.

"Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

(Ord. 99-1029 §2 (part), 1999)

13.12.50 Applicability and exemptions.

This chapter establishes performance standards for stormwater conveyance, quantity and quality. Additional performance standards for erosion prevention and sediment control are established in OCMC 17.47.

- A. Stormwater Conveyance. The stormwater conveyance requirements of this chapter shall apply to all stormwater systems constructed with any development activity, except as follows:
1. The conveyance facilities are located entirely on one privately owned parcel; and
 2. The conveyance facilities are privately maintained; and
 3. The conveyance facilities receive no stormwater runoff from outside the parcel's property limits.

Those facilities exempted from the stormwater conveyance requirements by the above subsection will remain subject to the requirements of the Oregon Uniform Plumbing Code. Those exempted facilities shall be reviewed by the building official.

- B. Water Quality and Flow Control. The water quality and flow control requirements of this chapter shall apply to the following proposed uses or developments, unless exempted under subsection C:
1. Activities located wholly or partially within water quality resource areas pursuant to [Chapter 17.49](#) that will result in the creation of more than five hundred square feet of impervious surface within the WQRA or will disturb more than one thousand square feet of existing impervious surface within the WQRA as part of a commercial or industrial redevelopment project. These square footage measurements will be considered cumulative for any given five-year period; or
 2. Activities that create or replace more than five thousand square feet of impervious surface per parcel or lot, cumulated over any given five year period.
- C. Exemptions. The following exemptions to 13.12.050(B) apply:
1. An exemption to the flow control requirements of this chapter will be granted when the development site discharges to the Willamette River, Clackamas River or Abernethy Creek;

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and either lies within the one hundred year floodplain or is up to ten feet above the design flood elevation as defined in [Chapter 17.42](#), provided that the following conditions are met:

- a. The project site is drained by a conveyance system that is comprised entirely of manmade elements (e.g. pipes, ditches, culverts outfalls, outfall protection, etc) and extends to the ordinary high water line of the exempt receiving water; and
 - b. The conveyance system between the project site and the exempt receiving water has sufficient hydraulic capacity and erosion stabilization measures to convey discharges from the proposed conditions of the project site and the existing conditions from non-project areas from which runoff is collected.
2. Projects in the following categories are generally exempt from the water quality and flow control requirements:
- a. Stream enhancement or restoration projects approved by the city;
 - b. Farming practices as defined by ORS 30.960 and farm use as defined in ORS 214.000; except that buildings associated with farm practices and farm use are subject to the requirements of this chapter,
 - c. Actions by a public utility or any other governmental agency to remove or alleviate an emergency condition,
 - d. Road and parking area preservation/maintenance projects such as pothole and square cut patching, surface sealing, replacing or overlaying of existing asphalt or concrete pavement, provided the preservation/maintenance activity does not expand the existing area of impervious coverage above the thresholds in 13.12.050(B).
 - e. Pedestrian and bicycle improvements (sidewalks, trails, pathways, and bicycle paths/lands) where no other impervious surfaces are created or replaced, built to direct stormwater runoff to adjacent vegetated areas.
 - f. Underground utility projects that replace the ground surface with in-kind material or materials with similar runoff characteristics.
 - g. Maintenance or repair of existing utilities.
- D. Uses Requiring Additional Management Practices. In addition to any other applicable requirements of this chapter, the following uses are subject to additional management practices, as defined in the Public Works Stormwater and Grading Design Standards:
- a. Bulk Petroleum Storage facilities;
 - b. Above ground storage of liquid materials;
 - c. Solid waste storage areas, containers, and trash compactors for commercial, industrial, or multi-family uses;
 - d. Exterior storage of bulk construction materials;
 - e. Material transfer areas and loading docks;
 - f. Equipment and/or vehicle washing facilities;
 - g. Development on land with suspected or known contamination;
 - h. Covered vehicle parking for commercial or industrial uses.
 - i. Industrial or commercial uses locating in high traffic areas, defined as average daily count trip of 2,500 or more trips per day, and
 - j. Land uses subject to DEQ 1200-Z Industrial Stormwater Permit Requirements.

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(Ord. 99-1029 §2 (part), 1999)

13.12.060 Abrogation and greater restrictions.

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of other portions of this code, regional, state or federal law, the provisions that are more restrictive shall govern. Where this chapter imposes restrictions that are more stringent than regional, state or federal law, the provisions of this chapter 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.

Compliance with this chapter and the minimum requirements, minimum standards, and design procedures as set forth in the city's adopted Public Works Stormwater and Grading Design Standards does not relieve the designer, owner, or developer of the responsibility to apply conservative and sound professional judgment to protect the health, safety and welfare of the public. It is not the intent of this chapter to make the city a guarantor or protector of public or private property in regard to land development activity.

(Ord. 99-1029 §2 (part), 1999)

13.12.070 Severability.

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

(Ord. 99-1029 §2 (part), 1999)

13.12.080 Submittal requirements.

- A. Applications subject to stormwater conveyance, water quality, and/or flow control requirements of this chapter shall prepare engineered drainage plans, drainage reports, and design flow calculation reports in compliance with the submittal requirements of the Public Works Stormwater and Grading Design Standards.
- B. Each project site, which may be composed of one or more contiguous parcels of land, shall have a separate valid city approved plan and report before proceeding with construction.

(Ord. 99-1029 §2 (part), 1999)

13.12.90 Approval criteria for engineered drainage plans and drainage report.

An engineered drainage plan and/or drainage report shall be approved only upon making the following findings:

- A. The plan and report demonstrate how the proposed development and stormwater facilities will accomplish the purpose statements of this chapter;
- B. The plan and report meet the requirements of the Public Works Stormwater and Grading Design Standards adopted by resolution under [Section 13.12.020](#)
- C. The storm drainage design within the proposed development includes provisions to adequately control runoff from all public and private streets and roof, footing, and area drains and ensures future extension of the current drainage system.

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- D. Streambank erosion protection is provided where stormwater, directly or indirectly, discharges to open channels or streams.
- E. Specific operation and maintenance measures are proposed that ensure that the proposed stormwater quantity control facilities will be properly operated and maintained.

(Ord. 99-1029 §2 (part), 1999)

13.12.100 Alternative materials, alternative design and methods of construction.

The provisions of this chapter are not intended to prevent the use of any material, alternate design or method of construction not specifically prescribed by this chapter or the Public Works Stormwater and Grading Design Standards, provided any alternate has been approved and its use authorized by the city engineer. The city engineer may approve any such alternate, provided that the city engineer finds that the proposed design is satisfactory and complies with the intent of this chapter and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed by this chapter in effectiveness, suitability, strength, durability and safety. The city engineer shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any action granting approval of an alternate shall be recorded and entered in the city files.

(Ord. 99-1029 §2 (part), 1999)

13.12.110 Transfer of engineering responsibility.

Project drainage plans shall always have a project engineer. If the project engineer is changed during the course of the work, the city shall be notified in writing and the work shall be stopped until the replacement engineer has agreed to accept the responsibilities of the project engineer. The new project engineer shall provide written notice of accepting project responsibility to the city within seventy-two hours of accepting the position as project engineer.

(Ord. 99-1029 §2 (part), 1999)

13.12.120 Standard Construction Specifications.

The workmanship and materials shall be in accordance with the edition of the "Standard Specifications for Public Works Construction," as prepared by the Oregon Chapter of American Public Works Association (APWA) and as modified and adopted by the city, in effect at the time of application. The exception to this requirement is where this chapter and the Public Works Stormwater and Grading Design Standards provide other design details, in which case the requirements of this chapter and the Public Works Stormwater and Grading Design Standards shall be complied with.

(Ord. 99-1029 §2 (part), 1999)

13.12.130 Administrative provisions.

An applicant shall submit the following additional items to the city and complete the following tasks prior to proceeding with construction of proposed development plans. These items include the following:

- A. Engineer's cost estimate (also may be known as engineer's opinion of probable construction cost);
- B. Plan check and inspection fees (as set by city resolution);
- C. Certificate of liability insurance for city funded public projects contracted by the city (not less than one million dollars single incident and two million dollars aggregate);

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- D. Preconstruction meeting (if required by some other provision of this code);
- E. Performance Assurance(s). Applicant must submit a letter of commitment, cash deposit or other form of assurance in form and substance satisfactory to the city engineer and city attorney, to cover the engineer's cost estimate for the construction of the stormwater facility. This is required to assure that the following are accomplished to the satisfaction of the city engineer:
 - 1. Work shown on the development plans is accomplished,
 - 2. Appropriate as-built/record drawings and electronic files are delivered to the city. (As-built drawings, or record drawings, will be on four-mil Mylar.) Electronic files shall be submitted per city engineer format requirements,
 - 3. Compliance with the criteria in this chapter and the Public Works Stormwater and Grading Design Standards, as well as with other city standards, ordinances, resolutions or rules,
 - 4. Permanent stabilization and/or restoration of the impact from the development,
 - 5. Fulfillment of all conditions of approval,
 - 6. Payment of all outstanding fees,
 - 7. Submittal of any required maintenance guarantee(s);
- F. Developer/engineer agreement for public works improvements;
- G. Land division compliance agreement (if applicable);
- H. Project engineer's certificate of completion;
- I. Operation and maintenance easement (if applicable);
- J. Details on individual items required by this subsection can be obtained by contacting the city's engineering division. Many items, such as the engineer's cost estimate and plan check and inspection fee, maybe be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).

(Ord. 99-1029 § 2 (part), 1999)

13.12.140 Maintenance of public stormwater facilities.

- A. A stormwater facility that receives stormwater runoff from a public right-of-way shall be a public facility. Upon expiration of the warranty period and acceptance by the city as described below, the city shall be responsible for maintenance of those public stormwater facilities. Access for maintenance of the stormwater facilities shall be provided to the city through the granting of a stormwater easement or other means acceptable to the city.
- B. Responsibility for maintenance of stormwater facilities including all landscaping, irrigation systems, structures and appurtenances shall remain with the property owner/developer for two years (known as the warranty period). The owner/developer shall provide the city a separate two-year landscaping maintenance bond for one hundred ten percent of the landscaping cost. Transfer of maintenance of stormwater conveyance systems shall occur when the city accepts the stormwater conveyance system.
- C. The city will perform an inspection of the development's entire publicly maintained stormwater system approximately forty-five days before the two-year warranty period expires. The stormwater system must be found to be in a clean, functional condition by the city engineer before acceptance of maintenance responsibility by the city.

(Ord. 07-1011, 2007; Ord. 99-1029 § 2(part), 1999)

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13.12.145 Maintenance of private stormwater facilities.

- A. An applicant shall submit an operation and maintenance plan for each proposed stormwater facilities, unless exempted in the Public Works Stormwater and Grading Design Standards. The information in the operation and maintenance plan shall satisfy the requirements of the Public Works Stormwater and Grading Design Standards.
- B. Private owners are required to inspect and maintain stormwater facilities on their property in accordance with an approved operation and maintenance plan. A maintenance log is required to document facility inspections and specific maintenance activities. The log shall be available to city inspection staff upon request.
- C. Failure to operate or maintain a stormwater facility according to the operation and maintenance plan may result in an enforcement action under Section 13.12.150.

13.12.150 Penalties and enforcement.

- A. The city is authorized to make inspections and take such actions as required to enforce the provisions of this chapter. The city has the authority to enter onto land for the purpose of inspecting site development activities or resulting improvements. City staff will make an effort to contact the property owner before entering onto that property.
- B. If the city engineer determines a site has any unpermitted or illegal facilities placed, constructed or installed on the site, then the city engineer shall notify the owner in writing directing the owner to submit a written plan (with construction drawings completed by a professional engineer, if otherwise required by this chapter) within ten calendar days. This plan (and drawings, if required) shall depict the restoration or stabilization of the site or correct the work that has adversely impacted adjacent or downstream property owners. The city engineer shall review the plan (and drawings, if required) for compliance with city standards and issue comments for correction, if necessary, or issue an approval to the owner. The city shall establish a fee by resolution for such review, with all costs borne by the owner. If the required corrective work constitutes a grading permit, then the city shall collect the appropriate grading permit fee.
- C. Any person, firm, corporation or entity violating any of the provisions of this chapter, whether they be the property owner, the applicant, the contractor or any other person acting with or without the authorization of the property owner or applicant, shall be subject to the code enforcement procedures of Chapters [1.16](#), [1.20](#) and [1.24](#)

(Ord. 99-1029 § 2 (part), 1999)

13.12.160 Hazardous conditions.

- A. Determination and Notification. If the city engineer determines that any excavation, embankment, erosion/sedimentation control or drainage facility is a safety hazard; endangers property; or adversely affects the safety, use or stability of a public way, water quality resource areas (pursuant to [Section 17.49](#)) or drainage course, the owner(s) of the subject property and/or the person or agent in control of the property shall be required to repair or eliminate the hazard in conformance with the requirements of this chapter and the Public Works Stormwater and Grading Design Standards. At the time that the city engineer makes the determination that a hazardous condition exists, the property owner and/or person or agent in control of the property will be notified in writing that the hazard exists.
- B. Order to Correct. The city engineer will order the specific work to be undertaken or will order that an engineering design be submitted for review and approval by the city engineer, and will specify the time periods within which the hazardous conditions be repaired or eliminated. In the event that the

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owner and/or the person or agent in control of the property fails to comply with this order, that person shall be subject to the code enforcement procedures of Chapters [1.16](#), [1.20](#), and [1.24](#)

(Ord. 99-1029 §2 (part), 1999)

13.12.170 Permits from other jurisdictions.

- A. The Oregon State Department of Environmental Quality (DEQ) currently issues NPDES 1200-C permits for projects that cover areas of one acre or greater. No permit shall be issued for projects of this size (or any other size as modified by DEQ) without a copy of said DEQ permit being on file with Oregon City. DEQ is responsible for policing its own permits, however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate DEQ representatives.
- B. Projects may require Oregon State Division of State Lands (DSL) and/or United States Army Corps of Engineers (USACE) permits. If such permits are required, no permission to construct will be granted until such a time as a copy of such permit is on file with the city or notice is received from those agencies that a permit is not required. DSL/USACE is responsible for enforcing its own permits, however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate DSL/USACE representatives.
- C. Projects may require Oregon State Department of Fish and Wildlife (ODFW) permits. When ODFW permits are required, no work will be authorized until the receipt of a copy of the ODFW permit. ODFW is responsible for policing its own permits, however, if city personnel observe conditions that are believed to be in violation of any such permit, and cannot get corrections made, the city will bring such conditions to the attention of the appropriate ODFW representatives.

(Ord. 99-1029 §2 (part), 1999)

13.12.180 Violation—Penalty.

Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of Chapters [1.16](#), [1.20](#) and [1.24](#).

(Ord. No. 10-1003, § 1(Exh. 1), 7-7-2010)

GSB:7047664.1