

ORDINANCE NO. 591

AN ORDINANCE AMENDING VENETA MUNICIPAL CODE TITLE 13 TO ADOPT EROSION AND SEDIMENT CONTROL STANDARDS

WHEREAS, the City is required to adopt erosion and sediment control standards by the City's 2023-2028 Total Maximum Daily Load (TMDL) Plan; and

WHEREAS, adopting erosion and sediment control standards would help to reduce the amount of sediment and other construction-related materials, including hazardous substances, into the City's stormwater system; and

WHEREAS, this reduction would help maintain the capacity of the City's stormwater system by minimizing sedimentation and would help prevent negative impacts from construction activity to water quality and environmentally sensitive areas; and

WHEREAS, the Council held a work session on the proposed amendments on September 23, 2024, and directed staff to move forward with the proposed amendments;

WHEREAS, on November 18, 2024, the Veneta City Council conducted a properly advertised public hearing and first reading on the proposed amendments; and

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

Section 1. Veneta Municipal Code Chapter 13 is hereby amended to insert a new Section 13.40 as set forth on Exhibit A, attached hereto and incorporated herein,

Section 2. **Severability.** The sections, subsections, paragraphs and clauses of this ordinance and the attached Code provisions are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 3. **Codification.** Provisions of this ordinance shall be incorporated into the City Code, and the words "ordinance" or "section" may be changed to "code," "article," "chapter," "division," or another word, and the sections of this Ordinance may be renumbered or re-lettered, provided however, that any recital clause and boilerplate provisions of this Ordinance will not be codified, and the City Recorder is authorized to correct any cross-references and any typographical errors.

Section 5. This Ordinance will go into full force and effect on the 30th day after City Council enactment, as dated below.

READ FOR A FIRST TIME, BY TITLE ONLY, this 18th day of November, 2024, no Council person in attendance having requested that it be read in full.

READ FOR A SECOND TIME, BY TITLE ONLY, AND FOR FINAL ADOPTION, this
9th day of December, 2024, no Council person in attendance having
requested that it be read in full.

PASSED AND ADOPTED by a 5 vote for and 0 against by the City of Veneta
Council this 9th day of December, 2024.

Keith Weiss
Keith Weiss, Mayor

Executed on
December 9, 2024

ATTEST:

Jennifer Mirabile
Jennifer Mirabile, City Recorder
Executed on 12/9/2024

Exhibit A to Ordinance 591

Chapter 13.40 Erosion and Sediment Control

13.40.010 Purpose

The purpose of this chapter is to restrict the discharge of sediments or other construction-related materials, including hazardous substances as defined in Section 13.04.020, into the City stormwater system to:

- 1) Prevent or minimize, to the maximum extent practicable, negative impacts to adjacent properties, water quality, environmentally sensitive areas, public facilities and infrastructure, and other stormwater-related natural resource areas resulting from construction and earth disturbing activities; and
- 2) Maintain the capacity of the city stormwater system by minimizing sedimentation.

13.40.020 Definitions

For the purpose of this chapter, the following words, terms, and phrases shall be defined as follows:

- 1) **Construction Activity.** An activity used in the process of developing, redeveloping, enhancing, or maintaining land, including, but not limited to: land disturbance, building construction, paving and surfacing, storage and disposal of construction-related materials.
- 2) **Construction-Related Materials.** Potential water quality pollutants that are used or created during construction activities including, but not limited to, off-site deposits of sediments by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood; paints and thinners; packaging materials; insulation, plaster grout); hazardous substances (e.g., petroleum products, cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, thinners); and concrete washout.
- 3) **Construction Site Management Plan (CSMP).** A set of maps, data, drawings, specifications and narrative that describes expected runoff from new construction sites, and establishes best management practices or equivalent measures to be taken for preventing erosion and controlling sediments, surface runoff and other pollutants from construction activities. The CSMP serves as the City of Veneta's equivalent requirement to the erosion sediment control plan (ESCP) required by the Oregon Department of Environmental Quality and the stormwater pollution prevention plan (SWPPP) required by the United States Environmental Protection Agency.

- 4) **Dewatering.** The removal and disposal of surface water or groundwater during construction or for the purpose of facilitating construction.
- 5) **Emergency Condition.** An immediate danger to life, property, or the environment due to circumstances beyond the control of the property owner including, but not limited to, natural and human-caused disasters such as fires, floods, slides, earthquakes, sinkholes and tree blow-down.
- 6) **Hazardous Substance.** Any hazardous waste as defined in ORS 466.005; any substance defined as a hazardous substance pursuant to Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended, and P.L. 99-499; oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge or refuse of any other petroleumrelated product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute.
- 7) **Minor Recurring Activities.** Repetitive minor construction, maintenance and operational activities on existing infrastructure that are performed as part of an overall work plan or program when no individual disturbance exceeds more than 500 square feet of land area and/or 20 cubic yards of fill or excavated material. Examples include, but are not limited to, connections and extensions of utility service, repair of utility and infrastructure facilities, and maintenance of stormwater facilities' drainage capacity.
- 8) **Related Natural Resource Area.** Streams, ditches, channels, ponds, wetlands, riparian areas, or other related waterways that act as part of a natural drainage system.
- 9) **Sensitive Land Area.** Area containing wetlands, steep slopes, flood plains, Greenway-Open Space Subzone, or protected trees.
- 10) **Stormwater.** Water derived from a storm and conveyed as runoff, snow melt runoff, and surface runoff and drainage.

13.40.030 Scope

- 1) Unless otherwise provided, the standards in this chapter apply to all construction activities that result in any one or all of the following:
 - A. Land disturbance, including, but not limited to, clearing, grading, grubbing, logging, excavating, filling, and storing of materials;
 - B. Structural development or demolition, including, but not limited to, buildings, bridges, roads, and other infrastructure;
 - C. Creation of new impervious surface or addition/alteration to existing impervious surfaces, including, but not limited to, parking lots, driveways, walkways, and patios; or
 - D. Dewatering.
- 2) **Exempt Activities.** Notwithstanding the foregoing, the following activities shall be exempt from the provisions of this section:
 - A. Actions by a public utility, the City, or any other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; or

B. Actions by any other person when the City determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.

13.40.040 Compliance

Regardless of whether a permit is required under subsection 13.40.060(1) of this section, no person shall engage in any construction activity covered by subsection 13.40.030(1) of this section in a manner that can potentially impact water quality, adjacent properties or stormwater-related natural resource areas except as allowed by this code. All persons shall implement erosion prevention and sediment control measures designed to meet the outcomes below. Failure to meet those outcomes shall subject the person to the same enforcement provisions as those applicable to a permit holder under subsection 13.40.070 of this section.

13.40.050 Expected Outcome

All persons conducting construction activities, as identified in section 13.40.030 above, shall employ, to the maximum extent practicable, erosion prevention and construction site management practices that will achieve, during both the construction period and wet weather season, the following outcomes:

- 1) Adjacent properties, water features, and related natural resource areas are kept free of deposits or discharges of soil, sediment, or construction-related material from the site except those that would occur through natural processes from an undisturbed site;
- 2) Vegetation in water features, related natural resource areas, and associated bank and/or riparian areas adjacent to construction sites are preserved or protected from impacts that exceed those that occur through natural processes on an undisturbed site;
- 3) Public rights-of-way, the City stormwater system and related natural resource areas, paths and trails, private streets and private stormwater drainage systems that discharge to the City stormwater system are kept free of mud, soil, sediment, concrete washout, trash, or other similar construction-related material. Direct deposit, dropping, dumping, erosion, tracking, or other discharge by construction vehicles of materials shall not occur in excess of those that occur through natural processes from an undisturbed site. Any such discharges that occur shall be prevented from entering water features or the City stormwater system and removed not later than the end of the day in which the discharge occurred, or as directed by the City. Corrective action shall be taken immediately for such discharges;
- 4) Soils and stockpile areas shall not be exposed to precipitation or stormwater runoff without the provision of secondary containment, perimeter controls, and other approved Best Management Practices;

- 5) Earth slides, mudflows, earth sloughing, or other earth movement which may leave the property shall not occur in excess of those that occur through natural processes on an undisturbed site;
- 6) No discharge into the City stormwater system or related natural resource areas of construction-related contaminants resulting from activities such as, but no limited to, cleaning or washing of equipment, tools, or vehicles shall occur;
- 7) No hazardous substances, such as paints, thinners, fuels, and other chemicals shall be released onto the site or adjacent properties or into water features, the City stormwater system, or related natural resource areas; and
- 8) Fugitive dust particles and aerial emissions will be minimized through site watering, temporary irrigation methods, dust barriers, windbreaks, and/or other preventative measures.

13.40.060 Erosion and Sediment Control Permit

- 1) **Permit Required.** Except as otherwise provided in subsection 13.40.060(6) of this section, no person shall commence any construction activity without first obtaining from the City an Erosion and Sediment Control Permit if the construction activity:
 - A. Disturbs more than 500 square feet of land surface area, or consists of the excavation and/or fill of more than 20 cubic yards of material;
 - B. Is located within a sensitive land area as defined in Section 13.40.020; or
 - C. Is located within the public right-of-way and requires permits from the Public Works Department.Construction activity that disturbs more than one acre of land must obtain a 1200-C permit from the Department of Environmental Quality (DEQ).
- 2) **Permit Classifications.** The City may issue the following types of permits, either of which will meet the requirements of subsection 13.40.060(1) of this section.
 - A. Individual Permit. A person, property owner, or easement holder of record may obtain an individual permit for each construction activity on the same development site, or for multiple construction activities proposed in connection with a development project on the same development site, including utility work, public improvements, private infrastructure, structures, and other site improvements.
 - B. Annual permit. A person, property owner, or easement holder of record may obtain an annual permit for minor recurring activities occurring on one or more development sites.
- 3) **Application.** The application for an Erosion and Sediment Control Permit shall be accompanied by:
 - A. **Fee.** A fee established by the City Council in an amount to recover the City's administrative costs.
 1. If the development site contains wetlands, is located within the Greenway – Open Space subzone, has slopes greater than 15%, or contains

conditions that make erosion prevention more complex than is typical, then the Community Development Director, Public Works Director, or their designee(s) may refer an erosion prevention permit to the City Engineer for review. Any additional costs incurred by the City beyond the application fee shall be charged to and paid by the applicant.

- B. Erosion and Sediment Control Permit Application. An application form established by the City, signed by the property owner and applicant.
- C. Construction Site Management Plan. A construction site management plan is required for all individual permits.
 - 1. The construction site management plan shall identify all stormwater drains or catch basins in the vicinity of the development site that could potentially be impacted by the ground-disturbing activity.
 - 2. The construction site management plan shall identify techniques, methods, and best management practices to be used to prevent and control erosion, sedimentation, and other pollutants associated with construction activity; and the location, design, and construction schedule for all erosion, sedimentation, and other construction site management control measures to be implemented and maintained.
 - 3. If the construction activity will take place on a property with slopes greater than 15%, or contains conditions more complex than is typical, the City may require the construction site management plan to be prepared by a certified professional.
 - 4. The approved construction site management plan shall be kept at the construction site and available for on-site inspection purposes.
- D. Work, scope and practices for annual permit. No construction site management plan shall be required for an annual permit. Instead, the applicant shall provide a narrative description of the scope of work to be performed and the practices employed for meeting the requirements of this chapter. A copy of the annual permit and narrative shall be kept at the site and available for on-site inspection purposes.

4) Review and Issuance.

- A. The erosion and sediment control measures shall meet or exceed the minimum required standards needed to meet anticipated construction, site conditions, and weather during construction. During the construction period, erosion and sediment control measures may be required to be upgraded as needed based on the activity and for unexpected storm events and to ensure that sediment and sediment-laden runoff do not leave the site.
- B. Upon receipt of an application for an Erosion and Sediment Control Permit, the City shall review the permit for completeness. A complete application is an application that contains all of the items described in Section 13.40.060(3). Upon deeming an application complete, the City shall review the application for compliance with the expected outcomes in Section 13.40.050.
- C. The City may approve a complete Erosion and Sediment Control Permit application if the application demonstrates that the ground-disturbing activity

will meet the expected outcomes in Section 13.40.050. The City may impose conditions of approval to ensure that all applicable requirements of this chapter are met and that the applicant complies with their approved Erosion and Sediment Control Permit.

5) Permit Duration.

- A. An individual permit shall remain in effect for the full period of the construction activity. The City may extend the duration of the permit for a period of up to, but not to exceed, two years after completion of the construction activity if the City determines the extension is necessary to ensure that the construction activity has stabilized in accordance with the outcomes identified in the administrative rules.
- B. Annual permits may be issued for a full calendar year, and shall expire on or before December 31st of the year issued. Annual permits may not be extended.

6) Waiver of Permit. Notwithstanding any other provisions of this section, the following activities shall not require an Erosion and Sediment Control Permit:

- A. Issuance of permits and/or approvals for interior improvements to an existing structure, or other approvals for which there is no physical disturbance to the surface of the land;
- B. Landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape; or
- C. Construction activities that are required to obtain a 1200-C permit from the Department of Environmental Quality. The permit requirement will be waived upon receipt of an approved 1200-C permit.

This waiver applies only to the requirement to obtain an Erosion and Sediment Control Permit and shall not be construed as an exemption from any of the erosion prevention requirements of this section, including but not limited to erosion prevention and sediment control measures designed to meet the outcomes established in Section 13.40.050.

13.40.070 Violations and Enforcement

- 1) Enforcement Policy. The primary focus of this section is to implement measures for preventing erosion and minimizing stormwater impact that will meet the outcomes established in this chapter, and the City will use the amount of enforcement necessary to achieve compliance. Where possible the City will rely on education rather than enforcement. The City may provide educational programs or other information materials that will assist permittees in meeting the desired erosion and sedimentation controls, and other construction site management practices outcomes.
- 2) Inspections. The City may make periodic inspections to ensure compliance with this code, rules issued hereunder, or conditions imposed on an erosion prevention or other permit.

3) **Violations.** Failure to comply with the provisions of this code, rules issued hereunder, the erosion prevention permits, or conditions imposed thereon, during the period that the permit(s) remains in effect may result in:

- A. Notice from the City of a violation. Upon notification by the City of a violation, the applicant shall immediately address the source of the violation and, if applicable, clean up the affected area;
- B. The issuance of a corrective memorandum and/or an administrative compliance order by the City;
- C. The issuance of a stop work order by the City;
- D. The imposition of an administrative civil penalty pursuant to the provisions of VMC Section 1.10.120; or
- E. The issuance of a citation into municipal court for violation of this code.

Failure to comply with any stop work or compliance order issued by the City shall constitute a separate violation. Each day a violation continues shall also constitute a separate violation.

13.040.080 Appeal

- 2) Within the time and in the manner prescribed in this section, the owner or applicant for an Erosion and Sediment Control permit may appeal:
 - A. The denial of a permit;
 - B. Any conditions imposed on a permit;
 - C. The determination that the ground-disturbing activity requires an Erosion and Sediment Control Permit; or
 - D. The denial of an extension of the duration of an individual permit.
- 3) A person aggrieved by an administrative action of the City taken pursuant to Chapter 13.040 may, within 15 days after the date of notice of the action, appeal in writing to the City. The appeal shall be accompanied by a fee as established by the City and shall state:
 - A. The name and address of the appellant;
 - B. The nature of the determination being appealed;
 - C. The reason the determination is incorrect; and
 - D. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed.
- 3) Unless the appellant and the City agree to a longer period, an appeal shall be heard by the City Council within 45 days of the receipt of the appeal. At least 10 days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.
- 4) The City Council shall hear and determine the appeal on the basis of the appellant's written statement, the Erosion and Sediment Control Permit application materials, and any additional evidence the City Council deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The burden of proof when presenting

evidence to support a fact or position rests on the proponent of the fact or position. The rules of evidence as used by courts of law do not apply.

- 5) The City shall issue a written decision within 10 days of the hearing date. The decision of the City Council after the hearing is final, and may include a determination that the appeal fee be refunded to the appellant upon a finding by the City Council that the appeal was not frivolous.