



STAFF REPORT

Meeting Date: July 16, 2025
Author: Sharon Darroux, Engineering Manager
Department: Public Works
Division: Engineering
Subject: Erosion and Sediment Control
Type of Item: Code Revision
CC: Mouhamad Zaher, Public Works Director
John Walsh, City Administrator

Introduction:

The City of St. Helens is committed to protecting water quality and meeting state and federal environmental regulations. As part of this effort, the City is required to comply with the Oregon Department of Environmental Quality's (DEQ) Total Maximum Daily Load (TMDL) requirements for mercury, which aims to reduce mercury levels in surface waters to protect public health and aquatic ecosystems in the Willamette River watershed.

Mercury is a toxic pollutant that can accumulate in the environment and pose significant risks to human health and wildlife, particularly through the consumption of contaminated fish. To address these concerns, DEQ established mercury TMDLs for watersheds across the state. Local jurisdictions listed as Designated Management Agencies (DMAs), like St. Helens, are required to implement measures that reduce mercury entering stormwater systems, primarily through minimizing soil erosion and controlling urban runoff.



City Ordinance 18.36 governs erosion control and stormwater management practices during land development and construction activities. However, the current ordinance does not fully reflect the latest best management practices (BMPs), performance standards, and enforcement mechanisms needed to comply with DEQ's mercury TMDL implementation plan.

This staff report recommends updating Ordinance 18.36 to incorporate specific provisions that align with the mercury TMDL requirements, including enhanced erosion and sediment control standards, improved site management practices, and clear permitting and enforcement procedures. These updates are critical to ensuring regulatory compliance, safeguarding natural resources, and supporting the City's

long-term environmental stewardship goals.

Background:

In 2021, the City of St. Helens was named as a Designated Management Agency (DMA) under the Willamette Basin Mercury Total Maximum Daily Load (TMDL) by the Oregon Department of Environmental Quality (DEQ). As a DMA, the City is responsible for implementing strategies to reduce mercury pollution entering local water bodies through stormwater runoff and other sources. This designation requires the City, pursuant to Oregon Administrative Rule (OAR) 340-042-0080, to develop and maintain a TMDL Implementation Plan that aligns with the Water Quality Management Plan (WQMP) for the basin.

The WQMP outlines six core management strategies that must be implemented by the City to address mercury as a pollutant of concern:

1. Pollution Prevention and Good Housekeeping
2. Public Education and Outreach
3. Public Involvement and Participation
4. Illicit Discharge Detection and Elimination
5. Construction Site Runoff Control
6. Post-Construction Site Runoff Control

Among these, the Construction Site Runoff Control Strategy is critical to reducing sediment-bound mercury from entering stormwater systems during land disturbance activities. Mercury often binds to fine soil particles, making erosion and sediment control an essential component of TMDL compliance.

To meet this requirement, the City must revise its existing erosion and sediment control ordinance (SHMC 18.36) to more effectively regulate construction site and other ground-disturbing activities. Proposed updates will expand the current code to require persons or entities to obtain an erosion and sediment control permit, as applicable, require the use of proper erosion and sediment control measures, as well as controls for other construction-related wastes, on all applicable development sites. Additionally, the revised code will establish enforcement mechanisms and penalties to ensure compliance with these standards.

These revisions are necessary to meet regulatory obligations under the TMDL Implementation Plan, protect local water quality, and align the City's code with state-mandated environmental management practices. Strengthening erosion and sediment control regulations will also support the City's broader commitment to sustainable development and environmental stewardship.

Budget Impact:

The proposed revisions to the erosion and sediment control code are expected to have a moderate budget impact on the City. The program will be administered by the Engineering Division, which is currently short-staffed. As such, implementation may require additional staff time or possibly contracted support to manage permit review, inspections, and enforcement activities depending on the program demand. However, the adoption of a new erosion and sediment control permit, associated with the code revision, will generate new fee-based revenue which may help offset these costs. Over time, as compliance improves and program processes are streamlined, the financial impact is expected to stabilize. Overall, the program represents a cost-effective investment in regulatory compliance and environmental protection, with potential for partial cost recovery through permit fees.

Requested Action:

Staff is requesting that City Council adopt an ordinance revising St. Helens Municipal Code 18.36, "Erosion and Sediment Control" in compliance with the City's TMDL Implementation Plan.

Attachment:

- Ordinance No. 3314 Revising Chapter 18.636 of the St. Helens Municipal Code Establishing A New Erosion And Sediment Control Permit and Associated Policies As Required By The City's Total Maximum Daily Load (TMDL) Implementation Plan for the Willamette River watershed.

City of St. Helens
ORDINANCE NO. 3314

AN ORDINANCE REVISING CHAPTER 18.36 OF THE ST. HELENS
MUNICIPAL CODE TO MEET THE CITY'S REQUIREMENT AS A
DESIGNATED MANAGEMENT AGENCY UNDER THE DEQ'S
WILLAMETTE BASIN MERCURY TOTAL MAXIMUM DAILY LOAD

WHEREAS, the City of St. Helens became a Designated Management Agency (DMA) under the federal Clean Water Act and the Oregon Department of Environmental Quality (DEQ) Total Maximum Daily Load (TMDL) implementation plan for the Willamette Basin; and

WHEREAS, the City of St. Helens, as a DMA, is required under OAR 340-42-080 to prepare and implement the requirements of the Water Quality Management Plan for the Willamette Basin and to reduce mercury pollutant from nonpoint sources to restore and protect water quality in local waterways and the Willamette River; and

WHEREAS, the City's Mercury TMDL plan requires the City to develop procedures for site inspection and enforcement of control measures to ensure sediment and erosion from construction sites and other ground disturbing activities do not contribute pollutants to local waterways and impair water quality; and

WHEREAS, Chapter 18.36 of the St. Helens Municipal Code governs erosion control, site development and standards, and is the appropriate chapter to address erosion and sediment control;

NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated by reference.

Section 2. The City of St. Helens Municipal Code is hereby amended to adopt revised Article 18.36 (Environmental Protection, Erosion Prevention, And Sediment Control Rules) under Code Chapter 18 (Engineering Standards Manual), as set out in **Exhibit A**, attached hereto, and incorporated herein by this reference.

Section 3. Severability. If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses, or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable. This City Council hereby declares

that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 4. Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

Section 5. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: July 16, 2025
Read the second time: August 20, 2025

APPROVED AND ADOPTED this 20th day of August 2025 by the following vote:

Ayes:

Nays:

Jennifer Massey, Mayor

ATTEST:

Kathy Payne, City Recorder

Ordinance No. XXXX – Exhibit “A”

Chapter 18.36

**EROSION PREVENTION AND SEDIMENT CONTROL ENVIRONMENTAL-
PROTECTION, EROSION PREVENTION, AND SEDIMENT CONTROL RULES**

Sections:

- 18.36.010 ~~Introduction~~Purpose.
18.36.020 General policy ~~and intent.~~
18.36.030 ~~Enforcement~~Definitions.
18.36.040 Erosion prevention and sediment control.
18.36.050 Erosion prevention and sediment control permit.
18.36.060 ~~Contaminated soils~~Erosion prevention and sediment control plan.
18.36.070 Erosion prevention and sediment control plan implementation.
18.36.080 Erosion prevention and sediment control plan compliance.
18.36.090 Final stabilization and permit termination.
18.36.100 Enforcement and penalties.
18.36.110 Appeals.

18.36.010 Introduction~~Purpose.~~

This chapter identifies requirements for erosion prevention and sediment control (EPSC). The provisions of this chapter are intended to prevent and reduce adverse impacts to the drainage system and water resources. In combination with other state, federal, and local laws and ordinances, these requirements are intended to protect the beneficial uses of waters within the greater St. Helens service district.

The city ~~will~~ follows the best management practices (BMPs) for EPSC as detailed in the most recent version of the “Erosion Prevention and Sediment Control Planning and Design Manual” issued through Clean Water Services of Washington County. ~~(Ord. 2875 Appx. § 810, 2003)~~

The purpose of this chapter is to minimize the amount of sediment, construction waste, and other pollutants reaching surface waters or entering the public storm drainage system as a result of development, construction, grading, excavating, clearing and any other activity which causes or accelerates erosion. The objective is to prevent erosion and control sediment as a means of maintaining and improving water quality and minimizing water pollution, downstream flooding and wildlife habitat damage.

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18.36.020 General policy ~~and intent.~~

- (1) Temporary and permanent measures shall be taken for all construction and development projects and ground disturbing activities to prevent the adverse effects of site erosion and sediment runoff. The intent behind the required measures is to minimize the amount of sediment and other pollutants reaching waterways, wetlands, and the public storm drainage system, and thus protect the environment during the life of ground disturbing activities and projects. The provisions of this chapter shall apply to land within the City limits regardless of whether that property is involved in a construction or development activity~~(1) Erosion-~~

Prevention and Sediment Control Policy. This chapter specifies the use of erosion prevention techniques and sediment control measures. The use of erosion prevention techniques shall be emphasized, rather than sediment control measures. This shall be especially important on larger construction sites immediately before and during the rainy season. Erosion prevention techniques are designed to protect soil particles from the force of rain and wind so that they will not erode. These techniques include, but are not limited to, such things as construction scheduling, ground cover, and matting. Sediment control measures are designed to capture soil particles after they have been dislodged and attempt to retain the soil particles on site. These measures include, but are not limited to, silt fences, sediment barriers, and settling basins. Both erosion prevention techniques and sediment control measures have appropriate uses; however, numerous case studies have shown that sediment control measures are less effective in preventing soil movement than erosion prevention techniques.

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(2) The erosion prevention and sediment control measures outlined in this policy are designed to prevent soil particles from being dislodged by the force of water and wind. Erosion prevention measures include strategies such as the proper timing of construction work, limiting the disturbance of ground cover, and protecting soil while it is exposed. Sediment control techniques are designed to capture soil particles after they have been dislodged and retain them on site until they are properly disposed of in accordance with regulations. These measures may include installing and maintaining silt fences, straw wattles, biobag inlet protection, and settling basins. As far as practicable, existing vegetation shall be protected and left in place, in accordance with the clearing limits on approved erosion prevention and sediment control plans. Work areas shall be carefully located and marked to reduce potential damage.

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(3) Where the provisions of this chapter are less restrictive or conflict with comparable provisions of the St Helens Municipal Code (SHMC), 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 and federal law, the provisions of this document shall govern. Nothing in this chapter shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

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~~(2) Existing Vegetation. As far as practicable, the existing vegetation shall be protected and left in place, in accordance with the clearing limits on the approved erosion prevention and sediment control plans. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation established, as soon as practicable. (Ord. 2875 Appx. § 820, 2003)~~

18.36.030 DefinitionsEnforcement.

The following words, terms, and phrases, as used in this chapter, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:~~Failure to comply with any provision of this chapter or with any term of an erosion prevention and~~

~~sedimentation control plan shall be deemed a violation and subject to enforcement action pursuant to applicable city ordinances, resolutions and orders, including all implementing rules and regulations. (Ord. 2875 Appx. § 830, 2003)~~

- (1) “303(d) Listed Stream” is a stream that has been found to exceed the accepted threshold for one or more specific pollutants, and has received an order from DEQ to address this water quality issue.
- (2) “Applicant” means the owner of real property or the owner's authorized agent, or any person who is to obtain an erosion control permit according to section 18.36.040 in this chapter.
- (3) “Approval” means having received official confirmation by the Director.
- (4) “Authorized agent” means the developer, contractor, engineer, builder, personal representative, or anyone designated by the owner to have control or supervision of a site involving a ground disturbing activity.
- (5) “Best Management Practices”(BMP) means strategies to prevent erosion and control sediment, in addition to other pollutants on construction sites outlined the “Erosion Prevention and Sediment Control Planning and Design Manual” issued through Clean Water Services of Washington County, Oregon.
- (6) “Certified professional” means any person licensed as a civil engineer, architect, landscape architect, or landscape designer who is qualified, in the judgment of the Director to design erosion prevention and sediment control plans or facilities; or any person certified by the State or the International Erosion Control Association as a certified professional in erosion and sediment control; or any person certified by other appropriate national association and who in the judgment of the Director has the knowledge, skills, and abilities to design erosion prevention and sediment control facilities.
- (7) “City” means City of St. Helens.
- (8) “City Official” means a representative of the city.
- (9) “Clearing” means any activity that removes vegetative cover of land.
- (10) “Director” means the Public Works Director or their designee.
- (11) “Drainage course” means any land surface, ditch, waterway, or other feature which serves as a course for the transmission of surface water and stormwater.
- (12) “Erosion” means the wearing away of the ground surface, or the movement, detachment or dislocation and transport of sediment including soil particles by the action of water or wind.

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- (13) "Erosion Prevention and Sediment Control Permit" means the officially approved document issued by the City required for construction or other activities is likely to cause a temporary or permanent increase of soil erosion from the site.
- (14) "Erosion prevention and sediment control" (EPSC) means measures that prevent or reduce the amount of soil disturbed by erosion, and that prevents or reduces the amount of eroded material leaving the site.
- (15) "Erosion Prevention and Sediment Control Plan" means a set of documents, maps, plans and other information indicating specific measures, sequencing or phasing to be used to control erosion and sediment on a site during and after construction or other ground disturbing activities.
- (16) "Grading" means excavation or fill of material, including the resulting conditions, spoils, or byproducts.
- (17) "Ground disturbing activity" means any activity that exposes or disturbs the earth's surface, potentially leading to soil displacement, vegetation removal, or changes in natural land contours by mechanical equipment, including, but not limited to, grading, excavating, filling, clearing, or working of land. Such disturbance may be permanent (i.e., gravel mining, farming, gardening, sports fields, etc.); or temporary or short-term duration such as construction, excavation, fill, grading, landscape installation, or other vegetative clearing activities.
- (18) "Impervious surface" means any surface that prevents or significantly reduces the infiltration of water into the soil by blocking the natural absorption of rainwater and increasing runoff. This includes but is not limited to materials such as asphalt, concrete, rooftops, or compacted gravel.
- (19) "Perimeter control" means a barrier that prevents sediment from leaving a site by filtering runoff or diverting it to a sediment trap or basin.
- (20) "Prohibited Pollutant" means a prohibited discharge to public sewer systems as pursuant to SHMC 13.14.090.
- (21) "Sediment" means finely divided loose material that can be suspended and transported in water or air and may originate from disturbed soil, landscaping, and construction activities or materials. For the purpose of this ordinance, sediment is considered a prohibited pollutant.
- (22) "Sedimentation" means the process of sediment settling or being deposited after being disturbed and transported by erosion.

(23) "Site" means a lot or parcel of land or contiguous lots or parcels of land where ground disturbing activities are performed as a single unified operation.

(24) "Stabilization" means the use of practices that prevent, or reduce to the maximum extent practicable, exposed soil from eroding.

(25) "Stormwater" means rainwater or melted snow that runs off the surface of the land.

(26) "Storm drainage system" means all conduits, ditches, gutters, catch basins, or any other facilities convenient or necessary to carry away and dispose of stormwater and subsurface drainage, surface water, or unpolluted surplus water.

(27) "Visible or Measurable erosion" means

(a) Deposits of mud, dirt, sediment, or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or into the storm and surface water system, either by direct deposit, dropping, discharge, or as a result of the action of erosion. One-half a cubic foot of volume weighs approximately fifty pounds and can cover two square feet at a depth of three inches.

(b) Sloughing, mud flows, gullies, sediment laden water, or other visual evidence that erosion has occurred or is likely to occur due to exposed soil and future rain events. Evidence of concentrated flows of water over bare soils; turbid or sediment-laden flows; or evidence of on-site erosion such as rivulets or bare soil slopes, where the flow of water is not filtered or captured on the site

(c) Presence of deposits or tracking of sediment exceeding one half cubic foot in volume at any one time on public or private streets, in drainage systems, and/or on adjacent property.

(d) Increase in total suspended solids and/or turbidity relative to a control point immediately upstream of the discharge point of the sediment generating activity.

(e) Evidence of offsite airborne sediment clearly visible.

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18.36.040 Erosion prevention and sediment control.

~~(1)~~ (1) Application and Purpose.

~~(1)~~ (1)

~~(a)~~ (a) It is a city requirement to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion, to the limits prescribed in this chapter.

~~(a)~~ (a)

~~(b)~~ ~~(b)~~ It is the policy of the city to require temporary and permanent measures for all ~~construction projects~~ ground disturbing activities as defined in this chapter to lessen the adverse effects of ~~construction erosion and sediment~~ on the environment. All ~~projects-~~ applicable ground disturbing activities shall include properly installed, operated, and maintained temporary and permanent erosion control measures as provided in this section and/or in an approved plan, designed to protect the environment during the term of the project. Additionally, compliance with the measures prescribed in this chapter and/or in an approved plan do not alleviate or diminish the necessity to provide effective and comprehensive erosion prevention and sediment control. These erosion control rules apply to all properties within the city limits, regardless of whether that property is involved in a construction or development activity.

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~~(b)~~ ~~(b)~~

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~~(c)~~ ~~(e)~~ Nothing in this section shall relieve any person of the obligation to comply with the regulations or permits of any federal, state, or local authority.

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~~(2)~~ ~~(2)~~ Erosion Prohibited.

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~~(2)~~ ~~(2)~~

~~(a)~~ ~~(a)~~ Visible or measurable erosion which enters, or is likely to enter, the public or private storm system, surface waters, or other properties, is hereby prohibited, and is a violation of ~~these rules~~ this chapter. The owner of the property, permittee under a ~~construction~~ permit, together with any person or persons, including but not limited to the contractor or the engineer causing such erosion, shall be held responsible for violation of these rules.

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~~(a)~~ ~~(a)~~

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~~(b)~~ ~~(b)~~ No person shall create physical erosion by dragging, dropping, tracking, or otherwise placing or depositing, or permitting to be deposited, mud, dirt, rock or other such debris upon a public street or into any part of the public storm system, or any part of a private storm system which drains or connects to the public storm system or drains to any surface water within city limits. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into any surface water or part of the storm system until all mechanical means to remove the debris have been exhausted and preventative sediment filtration is in place. The owner of the property, permittee, together with any person or persons, including but not limited to the contractor or the engineer who causes such erosion, shall be held responsible for violation of these rules.

~~(b)~~ ~~(b)~~

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~~(c)~~ ~~(e)~~ Excess materials and/or stockpiles shall be removed or tarped during wet weather conditions throughout the entire construction or applicable ground disturbing activities ~~process, including home or building construction~~.

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~~(3)~~ Maintenance. The permittee shall maintain the facilities and techniques contained in the

approved erosion prevention and sediment control plan so as to continue to be effective during the construction phase, post-construction phase, establishment of permanent vegetation, or any other permitted activity. If the facilities and techniques approved in an erosion prevention and sediment control plan are not effective or sufficient as determined by the city site inspection, the permittee shall submit a revised plan within three working days of written notification by the city. Upon approval of the revised plan by the city, the permittee shall immediately implement the additional facilities and techniques included in the revised plan. In cases where erosion is likely to occur, the city may require the applicant to install interim control measures prior to submittal of the revised erosion prevention and sediment control plan.

(4) Inspection.

(a) City Initial Inspection. On a site development or any other type of project, the erosion prevention and sediment control measures shall be installed prior to the start of any permitted activity.

(b) Owner Inspections and Inspection Logs. The owner shall be required to inspect erosion prevention and sediment control measures and provide information to the city. Inspections shall be completed on a daily basis or as required by the erosion prevention and sediment control plans. Logs are to be maintained on site and available to the city inspector(s) upon request.

(c) Final Inspection. A final erosion control inspection shall be required prior to the sale or conveyance to new property owner(s) or prior to the removal of erosion prevention and sediment control measures.

- (3) ~~(5)~~ Erosion Prevention Techniques and Methods. ~~The engineer of record shall be held ultimately responsible for the design and functionality of the erosion prevention and sediment control plan.~~ The following are minimum requirements of any plan submitted for city approval:

~~(3)~~ (a)

~~(a)~~ (a) A gravel construction entrance is required. If there is more than one vehicle access point, a gravel construction entrance shall be required at each entrance. The responsibility for the design and performance of the driveway remains with the permittee. Vehicles or equipment shall not enter a property adjacent to a stream, watercourse, storm facility, or wetlands unless adequate measures are installed to prevent physical erosion into the water or wetland.

~~(a)~~ (a)

~~(b)~~ (b) The use of straw bales as a sediment filter or barrier is not allowed.

~~(b)~~ (b)

~~(c)~~ (c) Plastic sheeting shall generally not be used as an erosion control measure for single-family house construction. Plastic sheeting may be used to protect small, highly erodible areas, or temporary stockpiles of material. If plastic sheeting is used, the path of concentrated flow from the plastic must be protected.

~~(c)~~ (c)

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~~(d)~~ ~~(d)~~ The erosion prevention and sediment control measures shall remain in place and be maintained in good condition until all disturbed soil areas are permanently stabilized by installation and establishment of landscaping, grass, mulching, or otherwise covered and protected from erosion.

~~(d)~~ .

~~(e)~~ ~~(e)~~ On sites where vegetation and ground cover have been removed from more than one acre of land, vegetative ground cover shall be planted on or before September 1st with the ground cover established by October 15th. As an alternative, if ground cover is not established by October 15th, the open areas shall be protected through the winter with straw mulch, erosion blankets, or other approved method(s).

~~(e)~~ .

~~(f)~~ ~~(f)~~ Sediment barriers are not required on a site.

~~(f)~~ .

~~(i)~~ ~~(i)~~ Where there are no concentrated flows and the slope being protected has a grade of less than two percent.

~~(i)~~ .

~~(ii)~~ ~~(ii)~~ Where flows are collected through the use of temporary or permanent grading or other means such that the flows are routed to an approved settling pond, filtering system, or sediment barrier.

~~(ii)~~ .

~~(iii)~~ ~~(iii)~~ Where there are no concentrated flows, slopes are less than 10 percent, and where the runoff passes through a grassed area which is either owned by the applicant, or such use is allowed, by written agreement, by the owner of the grassed area. The grass area shall be at least equal in dimensions to the project area.

~~(iii)~~ .

~~(iv)~~ ~~(iv)~~ Where the surface is protected by approved ground cover or matting.

~~(4)~~ ~~(6)~~ Dust. Dust shall be minimized to the extent practicable, utilizing all measures necessary, including, but not limited to:

~~(4)~~ .

~~(a)~~ ~~(a)~~ Sprinkling haul and access roads and other exposed dust-producing areas with water.

~~(a)~~ .

~~(b)~~ ~~(b)~~ Applying city-approved dust palliatives on access and haul roads.

~~(b)~~ .

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~~(e)~~ ~~(e)~~ Establishing temporary vegetative cover.

~~(c)~~ ~~(c)~~

~~(d)~~ ~~(d)~~ Placing wood chips or other effective mulches on vehicle and pedestrian use areas.

~~(d)~~ ~~(d)~~

~~(e)~~ ~~(e)~~ Maintaining the proper moisture condition on all fill surfaces.

~~(c)~~ ~~(c)~~

~~(f)~~ ~~(f)~~ Prewetting cut and borrow area surfaces.

~~(f)~~ ~~(f)~~

~~(g)~~ ~~(g)~~ Use of covered haul equipment. (~~Ord. 2875 Appx. § 840, 2003~~)

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18.36.050 Erosion prevention and sediment control permit. ~~18.36.050 Contaminated soils.~~

(1) Permit required.

(a) An Erosion Prevention and Sediment Control Permit shall be obtained when ground disturbing activity, including but not limited to the placement of fill, site clearing, or land disturbances, grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities will affect an area of 1,000 square feet or greater.

(b) An Erosion Prevention and Sediment control Permit shall be obtained when ground disturbing activity, including but not limited to the placement of fill, site clearing, or land disturbances, grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities will affect an area of 500 square feet and takes place within 50 feet of a body of water, or a wetland.

(c) Except as provided in subsection (2) of this section, when projects meet these sizing criteria, no person shall conduct ground disturbing activities that cause or are likely to cause a temporary or permanent increase in the rate of soil erosion from a site without first obtaining an Erosion Prevention and Sediment Control permit from the Public Works Engineering Division. Projects that are a part of a common plan of development or sale shall be considered one total sum of land disturbance.

(2) Permit exemptions.

(a) Activities for which there is no physical disturbance to the surface of the land.

(b) Ground disturbing activities that disturb less than 1,000 square feet of land.

(c) Ground disturbing activities which are within 50 feet of a body of water or a wetland and disturbs less than 500 square feet of land.

(d) Home gardening and landscaping activities, unless the ground disturbing activity:

(i) Disturbs an area of 500 square feet or greater and takes place within 50 feet of a body of water, or a wetland; or

(ii) Disturbs more than 1,000 square feet of land surface.

(e) Routine maintenance of gravel roads, road shoulders, paths, parking lots, and storage yards.

(f) Routine maintenance of sports fields or playgrounds surrounded by vegetative ground cover or permanently installed curbing.

(g) An exception from the City of St. Helens Erosion Prevention and Sediment Control Permit requirement does not exempt the applicant from the responsibilities of SHMC 18.36.020, except to the extent allowed under local, state, or federal permits issued for a specific site or purpose.

(3) Applicants performing construction activity within the City subject to an Oregon Department of Environmental Quality (DEQ) stormwater permit must provide evidence of such approval by the DEQ to the Director.

(4) Application for a permit.

(a) To obtain a permit, the applicant shall submit an Erosion Prevention and Sediment Control Permit application to the City of St. Helens Engineering Division. The application shall:

(i) Identify and describe the work to be covered by the permit.

(ii) Describe the land on which the proposed work is to be done by street address, legal description, or similar description that will readily identify and definitively locate the proposed work. Draft of an Erosion Prevention and Sediment Control Plan conforming to the requirements of SHMC 18.36.050.

(iii) Identify the person or entity performing the land-disturbing activity.

(iv) Provide a 24-hour emergency contact person and phone number.

(v) If the Director finds there is insufficient information contained in the

application to determine whether the EPSC Permit should be issued, the Director may require the submission of such additional information deemed necessary by the Director to make such determination.

(5) Permit duration.

- (a) EPSC Permits issued under this title will be valid for a period of one year. Permits may be extended until land-disturbing activities are completed and surface conditions stabilized with permanent measures to prevent future erosion as verified by the Director.
- (b) Prior to the expiration of an EPSC Permit, the permit holder may present a written request for an extension to the Director. If, in the opinion of the Director, an extension is warranted, up to a 12-month extension may be granted. Extensions will be subject to the applicable fees described in SHMC 18.36.040(8)
- (c) Expiration of an EPSC Permit that has not received a successful final stabilization inspection is a violation of this code.

(6) Commencement of land-disturbing activities restricted.

- (a) Land-disturbing activities shall not commence until the following conditions have been met:
 - (i) An EPSC Permit application has been submitted to the City with an attached EPSC plan.
 - (ii) The EPSC Permit has been reviewed and approved by the Director. EPSC BMPs have been installed in accordance with the approved EPSC Permit.
 - (iii) The Public Works Engineering Division has verified BMPs have been installed in accordance with the approved EPSC Permit with an initial site inspection.
 - (iv) Permit holder has modified BMPs or installed additional BMPs as required by the Director following the initial site inspection.

(7) Erosion Prevention and Sediment Control Permit Fees.

Fees applied under this title shall be as adopted by resolution of the City of St Helens City Council.~~In the event the construction process reveals soils contaminated with hazardous materials or chemicals, the contractor shall stop work immediately, ensure no contaminated material is hauled from the site, remove his work force from the immediate area of the contaminated area, leaving all machinery and equipment, and secure the area from access by the public until such time~~

as a response team has relieved them of that responsibility. The contractor shall immediately notify an emergency response team, the city, and DEQ of the situation. (Ord. 2875 Appx. § 850, 2003)

18.36.060 Erosion prevention and sediment control plan.

- (1) An Erosion Prevention and Sediment Control Plan shall be submitted with City of St Helens Erosion and Sediment Control Permit application to the Public Works Engineering Division.
- (2) The EPSC Plan shall follow the most current version of the *Erosion Prevention and Sediment Control Planning and Design Manual* issued through Clean Water Services of Washington County, Oregon.
- (3) Approved alternate erosion prevention and sediment control techniques may be used if designed by a certified professional and approved by the Director.
- (4) EPSC plans for construction projects disturbing half an acre or more of land surface shall require the stamp or signature of a certified professional.
- (5) The following are minimum requirements for the City of St. Helens Erosion Prevention and Sedimentation Control Plan. Additional BMPs may be necessary to prevent visible or measurable erosion and sediment from leaving the site to the greatest practical extent:
 - (a) Existing vegetation shall be preserved to the greatest practical extent. Trees shall not be used as anchors for stabilizing work equipment. Sites which discharge directly to Milton Creek or McNulty Creek shall require a vegetated buffer of 50 feet minimum, plus 25 feet for every 5 degrees slope to be established. The 50 feet shall be measured from the edge of the waterbody, to the nearest point of land disturbance.
 - (b) Applicants may install a BMP of equal effectiveness as the vegetated buffer as a substitute with approval from the City. Vehicles or equipment shall not enter a property adjacent to a stream, watercourse, storm facility, or wetlands unless adequate measures have been installed to prevent physical erosion into the water or wetlands.
 - (c) During periods of wet weather, disturbed areas of the site and/or stockpiled soils shall be covered by the Permittee by plastic sheeting or straw at the end of each day's operations; all disturbed, unworked areas of the site shall be protected from erosion. Stockpiles with temporary plastic sheeting shall be properly secured with sandbags.
 - (d) All sites must have proper spill kits in good working condition. Spill kits must be able to clean fuel, hydraulic fluid, oils from vehicles and machinery, debris, fertilizer, pesticides, herbicides, paint, solvents, curing compounds, adhesives from construction operations, and other chemical compounds.
 - (e) All sites with concrete work must have an approved concrete washout facility.

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Applicants will be responsible for maintaining and disposing concrete within the concrete washout.

18.36.070 Erosion prevention and sediment control plan implementation

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- (1) An approved Erosion Prevention and Sediment Control Plan shall be implemented and maintained as follows:
- (a) The Permittee shall inspect the site in conformance with the permit issued to ensure EPSC measures are effective.
 - (b) The Permittee is responsible for ensuring that no visible or measurable erosion or sediment, or any prohibited pollutant leaves the permitted site. If any of these are observed, the Permittee is responsible for recording the observation in an inspection and submitting a EPSC Inspection report to the City within 24 hours of the observation.
 - (c) The Permittee shall keep a record of inspections which shall include brief explanations as to any signs of erosion or sediment release and measures taken to prevent future releases as well as any measures taken to clean up any sediment that has left the site. Records must be made available to the City upon request and must be submitted to the City upon final completion of work.
 - (d) During periods of wet weather, or when unworked for a period of 14 days or more, disturbed areas of the site and/or stockpiled soils shall be covered by the Permittee by plastic sheeting or straw at the end of each day's operations; all disturbed, unworked areas of the site shall be protected from erosion. Stockpiles with temporary plastic sheeting need to be properly secured with sandbags.
 - (e) Permittee shall remove EPSC measures, establish permanent groundcover on all exposed soils; clean and remove trash, construction waste and sediment deposits before receiving a final EPSC inspection approval.
- (2) If the facilities and techniques in the approved EPSC Plan are not effective or are insufficient to meet the purposes of this chapter, the Permittee may be required to revise and resubmit the EPSC Plan. Such requirements shall be in writing and shall explain the problem. The written requirement shall be presented to the Permittee and any other related parties.
- (a) The revised EPSC Plan shall be submitted by the Permittee no later than three business days of when written notification by the City Engineering 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 or completed the same day as personal delivery.
 - (b) The Permittee shall implement fully the revised EPSC Plan no later than three business days after receiving approval of the revised EPSC Plan from the City.

(c) In cases where significant erosion is occurring, the Director or designee may require the Permittee to immediately install interim control measures before submittal of a revised EPSC Plan.

(d) If there is a confirmed or imminent threat of significant off-site erosion, the Director or designee shall issue a Stop Work Order, upon issuance of which all work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with the City of St. Helens performance standards for EPSC and are approved by the Director or designee.

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18.36.080 Erosion prevention and sediment control plan compliance.

- (1) The Permittee shall be responsible for actions of all agents, contractors, or subcontractors onsite with respect to complying with St. Helens Erosion Prevention and Sediment Control Standards, the approved EPSC Permit, and state, local, or federal laws concerning erosion prevention and sediment control.
- (2) The Director or designee reserves the right to enter onto a site holding an active EPSC Permit, in order to ensure compliance with the permit, and ensure no visible erosion or sedimentation is occurring.
- (3) The Permittee is responsible for removing any sediment or prohibited pollutant on paved areas, carried off-site, or that have entered stormwater infrastructure, or water bodies using techniques approved by the City.
- (4) All EPSC BMPs must be inspected visually according to the following schedule:

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<u>Site Condition</u>	<u>Minimum Frequency</u>
<u>Active period</u>	<u>Daily when stormwater runoff, including runoff from snow melt, is occurring.</u>
<u>Active period</u>	<u>At least once every two (2) weeks, regardless of whether stormwater runoff is occurring.</u>
<u>Prior to the site becoming inactive or in anticipation of site inaccessibility</u>	<u>Once to ensure that EPSC measures are in working order. Any necessary maintenance and repair must be made prior to leaving the site. Final stabilization may be required.</u>
<u>Inactive periods greater than fourteen (14) consecutive calendar days</u>	<u>Once every two (2) weeks.</u>

<u>Periods during which the site is inaccessible due to inclement weather</u>	<u>If practical, inspections must occur daily at a relevant and accessible discharge point or downstream location.</u>

(5) All inspections shall be documented containing the following information and any other information required by the EPSC Permit. Records of inspections will be kept on site in such a manner that they can be submitted to the City at the close of the permit.

- (a) Date, address of site, permit number.
- (b) Name, title, and contact information of the inspector.
- (c) A summary of observations at the time of inspection and since the last inspection including, BMPs performance, maintenance and installation of BMPs, site discharges, potential future problems, and any other details the inspector deems important.
- (d) Total amount of precipitation within the 24 hours prior to the inspection. Include the source of rainfall data.
- (e) Pictures of all active BMPs, and any other site details noted in the inspection will be time stamped and included in the inspection report.
- (f) If an inspection, or any single element of an inspection, is not able to be completed due to unsafe conditions, explain why.
- (g) Signature of the inspector confirming that all information was completed truthfully, accurately, and completely to the best ability, knowledge, and belief of the inspector.

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18.36.090 Final stabilization and permit termination

(1) When all ground disturbing activities are complete, the Director or designee will inspect the site for "Final Stabilization". The Permittee is responsible for contacting the City to request an inspection. The following are the requirements to meet final stabilization but are not intended to be complete list.

- (a) Vegetation is established with at least 70% land cover on all soils that were disturbed during the site development.
- (i) Vegetated cover shall be planted by September 1st and established by October 15th of the same calendar year. If vegetated cover cannot be achieved by these dates, the exposed land shall be protected through the

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winter by another form of cover such as erosion blankets, or mulch. When the wet season has ended (May 1st) the permit holder will establish vegetation on the exposed soils unless another permanent protection measure has been approved and installed.

(ii) For sites where it is difficult to establish 70 percent coverage, the Permittee shall propose another solution such as alternate ground cover, or a permanent stormwater management facility to prevent erosion to the greatest practical extent to the City for approval.

(b) Temporary BMPs are removed. All displaced soil, construction equipment, and tools are removed from the site. No soil is to be washed into the stormwater system during this process.

(c) If the City inspection determines these requirements are met, the Erosion Prevention and Sediment Control Permit will be closed out.

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18.36.100 Enforcement and penalties

(1) The City is authorized to enforce applicable code provisions of this chapter and to establish and impose enforcement fees and penalties for non-compliance, and to establish enforcement priorities.

(2) The following escalating enforcement actions shall be taken when standard verbal and written communications to the Permittee have failed to ensure compliance:

(a) Notice of Correction. Deficiencies in the Permittee's erosion control best management practices (BMPs) will be documented on the City's inspection form. Permittee will be given a verbal notice of the deficiencies as well as a written copy of the inspection report. The permittee shall have three (3) business days to make corrections. If corrections are not made within three (3) business days, enforcement will escalate to a Notice of Violation. If there is a confirmed or imminent threat of significant sediment leaving the site and entering a water body or the City's stormwater system, a Stop Work Order may be issued.

(b) Notice of Violation. If the Permittee does not correct the deficiencies noted the Notice of Correction within the three (3) business days allowed, the City will follow up with a formal Notice of Violation. The Notice of Violation will be given to the Permittee to formally notify them that they are not compliant with the permit conditions and/or City codes and ordinances. The purpose of this notice is to provide a warning that clearly outlines that more serious consequences will result if deficiencies are not corrected within three (3) business days of this notice. The Notice of Violation shall be mailed via certified mail to the Permittee and/or posted at the site of the violation.

(c) Stop Work Order. When a Notice of Correction and a Notice of Violation does not ensure compliance, or if there is an imminent threat of sediment leaving the site and entering a

water body or the City's stormwater system, a Stop Work Order will be issued. The Stop Work Order will be issued by the Director or designee. Upon issuance of the Stop Work Order, all work on the site shall halt except work necessary to correct the violations. Continuing to work after receiving a Stop Work Order is unlawful and a violation of this code. The Stop Work Order shall not be lifted until mitigation measures have been implemented, inspected and approved by the City. A Stop Work Order shall be posted at the site of violation.

(d) Nuisance Abatement. The Director or designee may determine that the failure or non-existence of erosion and sediment control measures as required by this chapter, constitute a nuisance presenting an immediate threat of injury to public health, the environment, or public or private property. In cases where the City determines it is necessary to take immediate action to meet the purposes of this chapter, summary abatement of such nuisance is authorized.

(i) Notification Following Abatement. When nuisance abatement is authorized, notice to the responsible party prior to abatement is not required. However, following the abatement, the City shall post upon the affected site the abatement notice describing the action taken to abate the nuisance and shall cause a notice to be mailed to the Permittee.

(ii) Financial Responsibility. Whenever a nuisance is abated under this section, the City shall keep an accurate account of all expenses incurred and shall file a statement of such costs with the City's Finance Department. Upon receipt of the statement, the Finance Director or designee shall mail a notice to the Permittee, stating the City's intent to assess the property in question the amount due plus charges to cover the costs of processing. In the event that amount due set forth in the notice is not paid in full within 30 days of the date of notice, the City Finance Director shall enter the amount of the unpaid balance, plus charges to cover administrative costs in the Docket of City liens which shall therefore constitute a lien against the property.

(e) Civil Penalties.

(i) A violation of any provision of this chapter, including of an EPSC Permit and approved EPSC Plan shall be a civil violation which may be enforced pursuant to SHMC 1.06.

(ii) The civil violation fine amount shall be not more than \$5,000, except that a violation of this chapter for a second or subsequent time within a 24-month period shall be punishable by a fine of not less than \$1,500 and not more than \$5,000.

(iii) Each day of a continued violation, after receipt of a Notice of Violation from the City, constitutes a separate violation. For calculation purposes, a day starts at 12:00 a.m. and ends at 11:59 p.m.

(iv) Any violation of this chapter is hereby declared to be a public nuisance as defined in

this chapter and may be abated as provided therein.

- (f) The rights, remedies and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

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18.36.110 Appeals

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- (1) A person to whom an order under this section is directed shall have the right within 14 days of the service of such order to appeal to the Public Works Director , which shall review such order at a special meeting called for such purpose. Unless the order is revoked or modified by the Public Works Director, it shall remain in full force and be obeyed by the person to whom it is directed. Appeals of the Public Works Director decision must be made within 14 days after the decision. No person to whom an order is directed shall fail to comply with such order within 30 days after an appeal shall have been determined.
- (2) Decisions on appeals pursuant to SHMC 18.36.100 (1) can be appealed to the St. Helens City Council upon application and payment of a fee set by council resolution. The City Council will hold a public hearing within 60 days of a proper application. The hearing will be noticed in a local newspaper no less than two weeks before the hearing.
- (3) Failure to Comply. When a person to whom an order is directed fails to comply within the specified time, the Director shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying the condition under a contract made under this section shall be authorized to enter premises for that purpose.
- (4) Special Assessment. If the cost of remedying a condition is not paid within 90 days after receipt of a statement from the city recorder or designee, such costs shall be levied against the property upon which the hazard exists as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as provided in this section. Such special assessment shall be certified by the Director to the city recorder, shall thereupon become and be a lien upon such property, and shall be recorded in the city lien docket by the city recorder.

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