

CITY OF MILWAUKIE

ORDINANCE NO. 1718

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE ENVIRONMENTAL PROTECTION ORDINANCE BY ADDING CHAPTER 16.28 TO THE MILWAUKIE MUNICIPAL CODE PERTAINING TO EROSION CONTROL PLANS INTENDED TO MAINTAIN AND IMPROVE WATER QUALITY, PREVENT AND/OR REDUCE SOIL EROSION, REDUCE SEDIMENTATION AND GENERALLY PROTECT CITY STORM SYSTEMS AND SURFACE WATERS.

WHEREAS, the City finds it desirable to protect its waterways and storm drainage systems from pollutants and debris generated by site disturbances, construction activities and resulting erosion; and

WHEREAS, the City is cooperating with Clackamas County in the development of a regional plan to deal with controlling pollutants from entering municipal storm water drainage systems and waterways within the City; and

WHEREAS, Clackamas County has adopted a Technical Guidance Handbook for Erosion/Sedimentation Control Plan, for use by municipalities; and

WHEREAS, Objective #6 of the Public Facilities and Services Element of the Milwaukie Comprehensive Plan contains policies authorizing coordinated action to resolve local and regional storm water drainage problems; and

WHEREAS, said Public Facilities and Services Element contains policies identifying a City need to prevent erosion, regulate stormwater runoff, protect water quality, and protect and enhance the use of drainageways as wildlife corridors; and

Whereas, the City is in need of measures to control storm water pollution to protect waterways within the City;

THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1. New Chapter 16.28 Erosion Control

There is hereby added to the Municipal Code of Milwaukie Chapter 16.28 Erosion Control, which is to read as follows:

16.28.010 Erosion Control Plans; Applicability; Conformance

(1) An erosion control plan is required prior to site clearing (grubbing, clearing or removal of vegetation), grading or construction activities, any of which cause a ground disturbance in excess of 500 square feet of area.

(2) On any site where clearing activity will disturb an area in excess of 500 square feet, approval of the erosion control plan is required prior to the issuance of grading permits, building permits, or approval of construction plans for subdivisions. All work on the site shall cease pending the approval of an erosion control plan and installation of approved erosion control measures.

(3) By providing notice in writing to the property owner, the City may require an erosion control plan for any site clearing activity on sites which disturb an area of less than 500 square feet, if the City determines that it is likely that an erosion problem will exist on that site as a result of the activity. All work on the site shall cease pending the approval of an erosion control plan and installation of approved erosion control measures.

(4) An erosion control plan is required prior to any site disturbance or act of removing vegetation from a lot, or portion thereof, for all property identified on the Natural Resources Property List in the City of Milwaukie Comprehensive Plan.

(5) If the City determines that site clearing, as defined in subsection (1) above, has occurred without an erosion control plan for property included on the Natural Resource Property List of the City of Milwaukie Comprehensive Plan, regardless of the size of the area that has been disturbed, the City shall provide notice in writing to the property owner of the need for an erosion control plan. All work on the site shall cease pending approval of an erosion control plan; installation of approved erosion control measures; an approved revegetation plan, if applicable; and processing of any applicable review procedures as prescribed in Section 322 of the Milwaukie Zoning Ordinance.

(6) Erosion control measures set forth in any approved erosion control plan shall be implemented and maintained on the site until the date set forth in the plan, or the amended date as necessary for the establishment of final landscaping. The City may allow for the removal of erosion control measures at an earlier date if erosion control is assured by established landscaping.

16.28.020 Content of Erosion Control Plan

Erosion control plans shall include a description of erosion control methods that are adequate to ensure that runoff siltation and pollutants from the grading, site clearing or construction are contained on-site during the period of activity on the site until the final landscaping is sufficiently established to control erosion. Each plan shall contain a date which is the estimated ending date for maintaining erosion control measures. That date may be extended if final landscaping has not been sufficiently established to control erosion. Plan submittal requirements, and recommended erosion control measures are included in the Clackamas County/City of Milwaukie Technical Guidance Handbook for Erosion/Sedimentation Control Plans (August 1991), which is hereby adopted in total as part of this chapter. Copies of the Guidance Handbook are available for a fee at the City Public Works Department.

16.28.030 Approval Process; Fees

An erosion control plan shall be submitted to the City for review and approval prior to site clearing, grading or construction which will cause a ground disturbance in excess of 500 square feet of area; or on smaller sites as determined by the City; or for any site clearing or disturbance on property identified on the Natural Resources Property List of the City of Milwaukie Comprehensive Plan.

Fees to cover the cost of erosion control plan review, site inspections and the Clackamas County/City of Milwaukie Technical Guidance Handbook for Erosion/Sedimentation Control Plans (August 1991) will be set by City Council resolution.

16.28.040 Amendment of Inadequate Measures

An approved erosion control plan may be amended by the City if, prior to the establishment of final landscaping sufficient to control erosion, the City determines that the erosion control measures in the approved plan have not, in fact, controlled site erosion or runoff as intended. All work on the site shall cease pending approval of an amended erosion control plan and installation of approved erosion control measures. Such amendment shall be provided to the permittee in writing and shall be implemented by the permittee.

16.28.050 Work in Progress

Permittees or property owners for any site activities which were underway on the effective date of this ordinance, 1718, 1992, may be required to prepare an erosion control plan for approval pursuant to this chapter. If the City determines that an erosion control problem exists, and requests an erosion control plan, ground work on the site shall cease pending approval of the plan and installation of approved erosion control measures. The provisions of this subsection shall apply only until final landscaping on the site is sufficiently established to control erosion.

16.28.070 Enforcement; Violation-Penalty

The Public Works Director or designee shall enforce the provisions of this chapter.

Beginning or continuing site clearing, grading or construction activities without an approved erosion control plan required by this chapter constitutes a violation of this chapter. Failure to implement the erosion control measures set forth in the approved erosion control plan constitutes a violation of this chapter. No building shall be certified for occupancy if the property is deemed to be in violation of this chapter. Any person convicted of violating this chapter shall be punished by a fine of not more than three hundred dollars. Each day that such violation exists shall be deemed a separate violation of this chapter.

Read for the first time on February 4, 1992 and moved to a second reading by unanimous vote of the City Council.

Read for the second time and adopted by the City Council on February 4, 1992.

Signed by the Mayor on February 4, 1992.

Craig J. Lomnicki Craig Lomnicki, Mayor

Attest:

Pat Duval
City Recorder

Approved as to form:

Michael C. Kalinowski
City Attorney