

ORDINANCE NO. 2023-_____

AN ORDINANCE amending the City of Yakima Municipal Code Chapter 7.82 Construction Stormwater Runoff

WHEREAS, the City of Yakima is required to comply with the State of Washington's Eastern Washington Phase II Municipal Stormwater Permit, hereinafter referred to as "Permit"; and

WHEREAS, the Permit requires the City to codify the City's right to enter and inspect any site with a high potential for sediment transport prior to clearing and grading; and

WHEREAS, the City has codified the use of Low Impact Development techniques as a best management practice, updates to the Permit require that the City amend the code to include protections to Low Impact Development installations including protection from sedimentation, erosion, heavy equipment, traffic, required cleaning of permeable pavements using the manufacturer's procedures; and

WHEREAS, the Permit requires the City to codify that documents submitted to the City for the control of construction stormwater runoff shall be reviewed for potential water quality impacts and for compliance with the most current version of the Stormwater Management Manual for Eastern Washington; and

WHEREAS, the City Council of the City of Yakima finds that it is in the best interests of the City of Yakima and its residents to amend Chapter 7.82 to grant the City right of entry to any site with a high potential for sediment transport, require owners of Low Impact Development installations to protect the installations from damage and deterioration, and require review of documents submitted to the City for the control of construction stormwater runoff for potential water quality impacts and for compliance with the most current version of the Stormwater Management Manual for Eastern Washington; now, therefore,

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Section 7.82.120 Right of entry of the City of Yakima Municipal Code is hereby amended to read as follows:

7.82.120 Right of entry.

(1) General. The director is hereby authorized and directed to enforce the provisions of this title. The director may employ, appoint and designate such city employees, representatives or officers to act on his behalf in the enforcement of this title under such control and supervision as he may specify. Any reference herein to the director shall also refer to designated city employees and the manager's duly authorized representatives. The director shall, either upon complaint or upon his own initiative, investigate potential violations of this title. It shall be the duty of all the city officers to assist the director in the performance of this duty. It shall be the duty of all officers charged with the enforcement of the law to assist in the implementation of this title and its provisions.

(2) Entrance onto Private Property. When necessary to perform any duties under this title or to investigate upon reasonable cause or complaint the existence or occurrence of a violation of this title, the director may enter onto property to inspect the same or to perform any duty imposed or

authorized by this title; provided, that if such property is occupied and not a public place, the director shall first present proper credentials and request permission to enter; and if such property is not occupied, the director shall first make a reasonable effort to locate the owners or other persons having charge or control and request entry. If such entry is refused, the director shall have recourse to every remedy provided by law to secure entry. The right of entry authorized under this title extends to any employee, officer or person who accompanies the director.

(3) **Judicial Warrant.** If the director is refused access to the property or any part thereof, and if the director has demonstrated a reasonable cause to believe that a violation of this title exists, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this title or any order issued hereunder, then upon application by the city attorney a judge of a competent jurisdiction will issue a search warrant describing the specific location subject to the warrant. The warrant will specify what may be searched and/or seized on the property described. The warrant will be served at reasonable hours by the director in the company of a uniformed police officer of the city. In the event of an emergency that presents an imminent threat to public health, safety or welfare as determined by the director, inspections may take place without the issuance of a warrant.

(4) **Scope of Entry.** The right of entry extends to the following matters:

- a) Entry upon the premises where a facility or activity is located or conducted, or where relevant records are kept;
- b) Access to and copying, at reasonable times, relevant records;
- c) Inspection at reasonable times of any facilities, equipment (including monitoring and control equipment), practices or operations regulated;
- d) Sampling or monitoring for the purposes of assuring compliance;
- e) Inspection of any production, manufacturing, fabricating or storage area where pollutants or nonstormwater discharges may originate, are stored or disposed of in the sewer system, the MS4 or public UIC. (Ord. 2010-07 § 1(part), 2010); and
- f) Inspection of any site with high potential for sediment transport prior to clearing and grading.

Section 2. Section 7.82.130 Construction stormwater pollution prevention plan (SWPPP) of the City of Yakima Municipal Code is hereby amended to read as follows:

7.82.130 Construction stormwater pollution prevention plan (SWPPP).

(1) **Construction SWPPP Required.**

- a) Projects meeting the regulatory threshold and not qualifying for an erosivity waiver from Washington State Department of Ecology shall prepare a stormwater pollution prevention plan (SWPPP) for construction activity. The SWPPP shall be implemented beginning with initial soil disturbance and continue until final stabilization.
- b) Each SWPPP shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.
- c) Each SWPPP shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the SWPPP and that

a certified erosion and sediment control lead (CESCL) shall be on site or on call for the entire length of the project.

d) SWPPP Compliance. SWPPP compliance may be obtained in one of four ways, as follows:

1. Preparation, submittal and implementation of a construction SWPPP in accordance with subsection (2) of this section.

I. All such projects shall provide a copy of the construction SWPPP prepared in accordance with Ecology requirements, including an anticipated schedule, to the director at least twenty-four hours before any land disturbing activity.

2. Preparation and implementation of an SWPPP developed in accordance with the requirements of Ecology's general NPDES permit for stormwater discharges associated with construction activities.

I. All such projects shall provide a copy of the construction SWPPP prepared in accordance with Ecology requirements, including an anticipated schedule, to the director at least twenty-four hours before any land disturbing activity.

3. Public and private development or redevelopment that qualifies for and obtains an erosivity waiver in accordance with requirements of the Washington State Department of Ecology general NPDES permit for stormwater discharges associated with construction activities.

4. Public and private development or redevelopment that qualifies for and obtains an erosivity waiver in accordance with the following:

I. The erosivity waiver contains the following conditions:

i. The total acres to be disturbed within the entire construction project or common plan of development do not exceed five acres; and

ii. Calculation of Erosivity "R" Factor.

1. The project's rainfall erosivity factor ("R" factor) must be less than five during the period of construction activity, as calculated using the Texas A&M University online rainfall erosivity calculator at: <http://ei.tamu.edu/>. The period of construction activity begins at initial earth disturbance and ends with final stabilization; and, in addition,

iii. Operators must submit a complete erosivity waiver certification statement at least one week prior to commencing land disturbing activities. Certification must include:

1. A statement that the operator will comply with applicable local stormwater requirements; and

2. A statement that the operator will implement appropriate erosion and sediment control BMPs to prevent violations of water quality standards; and

iv. This waiver is not available for facilities declared a significant contributor of pollutants by Ecology; and

v. The project has no other discharges including, but not limited to, excavation dewatering, wash waters and hydrostatic test waters.

II. Appropriate erosion and sediment control BMPs be implemented to prevent violations of water quality standards.

III. Discharge of sediment or other pollutants from a construction site qualifying under an erosivity waiver is subject to the illicit discharge ordinance, YMC Chapter [7.85](#).

5. For projects subject to YMC Chapter [7.83](#), Post-Construction Stormwater Runoff, a construction SWPPP or erosivity waiver prepared in accordance with this chapter is required as part of the stormwater site plan.

(2) Construction SWPPP Elements.

a) The construction SWPPP shall include the twelve elements of a construction SWPPP. Guidance for design and implementation of the thirteen elements in a construction SWPPP are found in the Stormwater Management Manual for Eastern Washington dated 2019 (or approved local equivalent).

1- Preserve Vegetation/Mark Clearing Limits.

I. Prior to beginning land disturbing activities, including clearing and grading, clearly mark all clearing limits, sensitive areas and their buffers, and trees that are to be preserved within the construction area.

II. The duff layer, native top soil, and natural vegetation shall be retained in an undisturbed state to the maximum degree practicable.

2- Establish Construction Access.

I. Construction vehicle access and exit shall be limited to one route, if possible.

II. Access points shall be stabilized with a pad of quarry spalls, crushed rock, or other equivalent BMP to minimize the tracking of sediment onto public roads.

III. Wheel wash or tire baths shall be located on site if the stabilized construction entrance is not effective in preventing sediment from being tracked onto public roads.

IV. If sediment is tracked off site, public roads shall be cleaned thoroughly at the end of each day, or more frequently during wet weather. Sediment shall be removed

from roads by shoveling or pickup sweeping and shall be transported to a controlled sediment disposal area.

V. Street washing is allowed only after sediment is removed in accordance with subsection (2)(a)(2)(IV) of this section. Street wash wastewater shall be controlled by pumping back on site or otherwise be prevented from discharging into systems tributary to waters of the state.

3- Control Flow Rates.

I. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the velocity and peak volumetric flow rate of stormwater runoff from the project site, as required by local plan approval authority.

II. Where necessary to comply with subsection (2)(a)(3)(I) of this section, stormwater retention or detention facilities shall be constructed as one of the first steps in grading. Detention facilities shall be functional prior to construction of site improvements (e.g., impervious surfaces).

III. If permanent infiltration ponds are used for flow control during construction, these facilities shall be protected from siltation during the construction phase.

4- Install Sediment Controls.

I. Stormwater runoff from disturbed areas shall pass through a sediment pond or other appropriate sediment removal BMP, prior to leaving a construction site or prior to discharge to an infiltration facility. Runoff from fully stabilized areas may be discharged without a sediment removal BMP, but shall meet the flow control performance standard of subsection (2)(a)(3)(I) of this section.

II. Sediment control BMPs (sediment ponds, traps, filters, etc.) shall be constructed as one of the first steps in grading. These BMPs shall be functional before other land disturbing activities take place.

III. BMPs intended to trap sediment on site shall be located in a manner to avoid interference with the movement of juvenile salmonids attempting to enter off-channel areas or drainages.

5- Stabilize Soils.

I. Exposed and unworked soils shall be stabilized by application of effective BMPs that prevent erosion. Applicable BMPs include, but are not limited to: temporary and permanent seeding, sodding, mulching, plastic covering, erosion control fabrics and matting, soil application of polyacrylamide (PAM), the early application of gravel base on areas to be paved, and dust control.

II. No soils shall remain exposed and unworked for more than the time periods set forth below to prevent erosion:

- i. For areas with mean annual precipitation of twelve inches or greater:
 - 1. During the dry season (July 1st—September 30th): ten days.
 - 2. During the wet season (October 1st—June 30th): five days.
- ii. For areas with mean annual precipitation less than twelve inches:
 - 1. During the dry season (July 1st—September 30th): thirty days.
 - 2. During the wet season (October 1st—June 30th): fifteen days.
- III. Soils shall be stabilized at the end of the shift before a holiday or weekend if needed based on the weather forecast.
- IV. Soil stockpiles shall be stabilized from erosion, protected with sediment trapping measures, and, where possible, be located away from storm drain inlets, waterways, and drainage channels.

6- Protect Slopes.

- I. Design and construct cut and fill slopes in a manner that will minimize erosion. Applicable practices include, but are not limited to, reducing continuous length of slope with terracing and diversions, reducing slope steepness, and roughening slope surfaces (e.g., track walking).
- II. Off-site stormwater (run-on) or groundwater shall be diverted away from slopes and disturbed areas with interceptor dikes, pipes, and/or swales. Off-site stormwater should be managed separately from stormwater generated on the site.
- III. At the top of slopes, collect drainage in pipe slope drains or protected channels to prevent erosion. Temporary pipe slope drains and channels shall handle the expected peak flow velocity from a six-month, three-hour storm for the developed condition, referred to as the short duration storm.
- IV. Check dams shall be placed at regular intervals within constructed channels that are cut down a slope.
- V. Excavated material shall be placed on the uphill side of trenches, consistent with safety and space considerations.

7- Protect Drain Inlets.

- I. All storm drain inlets made operable during construction shall be protected so that stormwater runoff does not enter the conveyance system without first being filtered or treated to remove sediment.

II. Inlet protection devices shall be cleaned or removed and replaced when sediment has filled one-third of the available storage (unless a different standard is specified by the product manufacturer).

8- Stabilize Channels and Outlets.

I. All temporary on-site conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the following expected peak flows.

II. Channels shall handle the expected peak flow velocity from a six-month, three-hour storm for the developed condition, referred to as the short duration storm.

III. Stabilization, including armoring material, adequate to prevent erosion of outlets, adjacent stream banks, slopes, and downstream reaches shall be provided at the outlets of all conveyance systems.

9- Control Pollutants.

I. All pollutants, including waste materials and demolition debris, that occur on site shall be handled and disposed of in a manner that does not cause contamination of stormwater.

II. Cover, containment, and protection from vandalism shall be provided for all chemicals, liquid products, petroleum products, and other materials that have the potential to pose a threat to human health or the environment. On-site fueling tanks shall include secondary containment.

III. Maintenance, fueling, and repair of heavy equipment and vehicles shall be conducted using spill prevention and control measures. Contaminated surfaces shall be cleaned immediately following any spill incident.

IV. Wheel wash or tire bath wastewater shall be discharged to a separate on-site treatment system or to the sanitary sewer with local sewer district approval.

V. Application of fertilizers and pesticides shall be conducted in a manner and at application rates that will not result in loss of chemical to stormwater runoff. Manufacturers' label requirements for application rates and procedures shall be followed.

VI. BMPs shall be used to prevent or treat contamination of stormwater runoff by pH-modifying sources. These sources include, but are not limited to: bulk cement, cement kiln dust, fly ash, new concrete washing and curing waters, waste streams generated from concrete grinding and sawing, exposed aggregate processes, dewatering concrete vaults, concrete pumping and mixer washout waters. Responsible parties shall adjust the pH of stormwater if necessary to prevent violations of water quality standards.

VII. Responsible parties shall obtain written approval from Ecology prior to using chemical treatment, other than CO₂ or dry ice, to adjust pH.

VIII. Responsible parties shall handle and dispose of on-site litter in a manner that does not cause contamination of stormwater.

IX. Portable restroom facilities shall be provided for construction workers. Such facilities shall be cleaned and maintained in a manner that will prevent any spills. If any spills do occur, they shall be cleaned up immediately.

10- Control Dewatering.

I. Foundation, vault, and trench dewatering water, which has similar characteristics to stormwater runoff at the site, shall be discharged into a controlled conveyance system prior to discharge to a sediment trap or sediment pond.

II. Clean, nonturbid dewatering water, such as well-point groundwater, can be discharged to systems tributary to, or directly into, surface waters of the state, as specified in Ecology's construction stormwater general permit (November, 2005) at S9.D.8, provided the dewatering flow does not cause erosion or flooding of receiving waters. Clean dewatering water should not be routed through stormwater sediment ponds.

III. Other dewatering disposal options may include:

i. Infiltration;

ii. Transport off site in a vehicle, such as a vacuum flush truck, for legal disposal in a manner that does not pollute state waters;

iii. Ecology-approved on-site chemical treatment or other suitable treatment technologies;

iv. Sanitary sewer discharge with local sewer district approval, if there is no other option; or

v. Use of a sedimentation bag with outfall to a ditch or swale for small volumes of localized dewatering.

IV. Highly turbid or contaminated dewatering water shall be handled separately from stormwater.

11- Maintain BMPs.

I. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function in accordance with BMP specifications.

II. All temporary erosion and sediment control BMPs shall be removed within thirty days after final site stabilization is achieved or after the temporary BMPs are no longer needed.

12- Manage the Project.

- I. Development projects shall be phased to the maximum degree practicable and shall take into account seasonal work limitations.

13- Protect Low Impact Development (LID) BMPs;

- i. Protect all Bioretention and Rain Garden facilities from sedimentation through installation and maintenance of erosion and sediment control BMPs on portions of the site that drain into the Bioretention and/or Rain Garden facilities. Restore the facilities to their fully functioning condition if they accumulate sediment during construction. Restoring the facility must include removal of sediment and any sediment-laden Bioretention/Rain Garden soils, and replacing the removed soils with soils meeting the design specification.
- ii. Maintain the infiltration capabilities of Bioretention and Rain Garden facilities by protecting against compaction by construction equipment and foot traffic. Completed lawn and landscaped areas shall also be protected from compaction due to construction equipment.
- iii. Control erosion and avoid introducing sediment from surrounding land used onto permeable pavements. Do not allow muddy construction equipment on the base material or pavement and do not allow sediment-laden runoff onto permeable pavements.
- iv. Clean permeable pavements using the manufacturer's procedures if the pavement has been fouled with sediments or no longer passes an initial infiltration test.
- v. Keep all heavy equipment off existing soils under LID facilities that have been excavated to final grade to retain the infiltration rate of the soils.

b) Inspection and Monitoring.

1. All BMPs shall be inspected, maintained, and repaired as needed to assure continued performance of their intended function. The SWPPP shall identify an inspection and maintenance schedule for the BMPs contained in the SWPPP. Specific BMP inspection and maintenance guidance is contained in the latest version of the Stormwater Management Manual for Eastern Washington, other Ecology-approved stormwater manuals, or approved local equivalent.

(3) Maintenance of the Construction SWPPP. The construction SWPPP shall be retained on site or within reasonable access to the site. The construction SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance of any BMP.

(4) Construction SWPPP—Map Contents and Requirements.

a) The SWPPP shall also include a vicinity map or general location map (e.g., USGS quadrangle map, a portion of a county or city map, or other appropriate map) with enough detail to identify the location of the construction site and receiving waters within one mile of the site.

b) The SWPPP shall also include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:

1. The direction of north, property lines, and existing structures and roads;
2. Cut and fill slopes indicating the top and bottom of slope catch lines;
3. Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
4. Areas of soil disturbance and areas that will not be disturbed;
5. Locations of structural and nonstructural controls (BMPs) identified in the SWPPP;
6. Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas;
7. Locations of all surface water bodies, including wetlands;
8. Locations where stormwater or nonstormwater discharges off site and/or to a surface water body, including wetlands;
9. Location of water quality sampling station(s), if sampling is required by state or local permitting authority; and
10. Areas where final stabilization has been accomplished and no further construction-phase requirements apply. (Ord. 2018-032 § 4, 2018: Ord. 2010-07 § 1 (part), 2010).

Section 3. Section 7.82.150 Procedures and requirements of the City of Yakima Municipal Code is hereby amended to read as follows:

7.82.150 Procedures and requirements

- (1) Application Requirements. Applications shall be submitted and considered in the manner established by existing city ordinance, Chapter [16.04](#).
- (2) Review and Approval. Submitted documents pertaining to construction stormwater runoff shall be reviewed by the Director for potential water quality impacts and for compliance with this ordinance and the most current version of the Stormwater Management Manual for Eastern Washington.
- (3) Substantive Changes to Plan. No substantive changes shall be made to an approved plan without review and written approval by the director. The director may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this chapter.
- (4) Expiration of Plan Approval. The construction SWPPP's approval expires in one year from the date of approval unless a final plat is recorded or unless work has actually begun on the site. The recordation of a final plat for a section of a subdivision (or initiation of construction in a section) does not vest the approval of the construction SWPPP for the remainder of the subdivision. If the construction SWPPP expires, the applicant shall file with the city for reapproval of the construction SWPPP. (Ord. 2010-07 § 1 (part), 2010).

Section 4. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of June, 2023.

ATTEST:

Janice Deccio, Mayor

Rosalinda Ibarra, City Clerk

Publication Date:_____

Effective Date:_____