

**Chapter 13.01**  
**GRADING, EXCAVATION AND FILL REGULATIONS**

**Section:**

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**13.01.010. Purpose:** The purpose of this ordinance is to protect health, safety and welfare of the public by:

- A. Minimizing hazards associated with grading, land clearing, excavating and filling;
- B. Preventing, avoiding and otherwise minimizing the erosion during clearing, excavation, grading, construction and post-construction activities;
- C. Prevent the transport or flow of sediment into the public right-of-way, the City's stormwater system and other public facilities caused by clearing, excavation, grading, construction and post-construction activities;
- D. Preventing the transport or flow of sediment into water courses, wetlands, riparian areas, thus protecting water quality and fish and wildlife habitat;
- E. Preventing the transport or flow of sediment onto adjacent public and private property;
- F. Preventing, avoiding and otherwise minimizing stormwater runoff from impervious surfaces;
- G. Ensuring that an accurate site plan is prepared prior to construction activities and that proper and effective erosion control methods are used for all grading, clearing, excavating and other development activities; and
- H. Ensuring that new driveways necessary to access private property from a City street are compatible with the existing city streets and other public facilities located in the right-of-way.
- I. Ensuring that all property owners accept the normal or natural volume and velocity of stormwater runoff from up-gradient properties, allow the passage of that flow, and

maintain the normal or natural volume and velocity of stormwater flow onto down-gradient properties.

**13.01.020. Definitions:** For the purpose of this Ordinance, the following definitions shall apply:

- A. "Clearing" means any activity that removes vegetative cover at the ground level.
- B. "City Engineer" means the engineer retained by the City or his/her designee to oversee City engineering business and be responsible for review of construction activities and enforcement of this ordinance.
- C. "Developer" means any property owner, contractor, person, corporation or other entity that proposes or engages in, or proposes, any regulated activity on any land within the Mosier Urban Growth Boundary.
- D. "Driveway" means a privately owned access point for a single lot from a City street.
- E. "Excavation" means the mechanical removal of earth material.
- F. "Fill" means the deposit of earth material placed by artificial means.
- G. "Grading" means excavation or fill, or any combination thereof, including the conditions resulting from any excavation or fill.
- H. "Impervious Surface" means the construction of any paved surface, compacted gravel surface, or structure that provides little to no infiltration of rainfall.
- I. "Low Impact Development LID" means the use of industry standard techniques to minimize stormwater runoff volume by such means as infiltration swales, dry wells, strip drains, pervious surfaces, etc.
- J. "Regulated activity" means the clearing, grading, excavation, or filling of land, the construction of impervious surfaces which will increase stormwater runoff, and the construction of new driveways accessing city streets.
- K. "Sedimentation" means the depositing of solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity.

**13.01.030. Construction Permit Required:**

- A. Any one proposing any regulated activity, as defined in this Ordinance and which meets the thresholds or requirements listed in the next subsection, on any property within the

Mosier Urban Growth Boundary shall first apply for and obtain a Construction Permit as prescribed by this ordinance before beginning any regulated activity, unless the proposed regulated activity is specifically exempt in subsection (7) of this section.

- B. A Construction Permit is required if any of the following situations exist:
1. Any regulated activity within 100 feet of a stream, watercourse or wetland; or
  2. Any regulated activity that includes construction of a driveway connecting to a City street.
  3. Any regulated activity that involves the excavation, fill or combination of excavation and fill, exceeding 50 cubic yards within a 12-month period. To determine if this threshold is met, quantities of fill and excavation shall be calculated separately and then added together, even if excavated material is used as fill on the same site.
  4. Any regulated activity involving the clearing of an area 5,000 square feet or more, as measured at the ground level.
  5. Any regulated activity that includes the creation of 2,000 square feet or more of impervious surface.
- C. All Construction Permits shall expire one year from the date of issuance. The City Engineer may extend or renew a Construction Permit, so long as the Developer pays a new permit fee and the work complies with all requirements of the original permit plus any new or additional requirements or regulations adopted or imposed since the prior permit had been approved.
- D. The City Engineer shall be primarily responsible for reviewing applications, determining sufficiency of proposals and documentation, and determining what additional information is needed for an application, in addition to the basic requirements of this ordinance. In addition, the City Engineer shall have the authority to impose any and all reasonable conditions deemed necessary to achieve the purposes of this Ordinance and comply with any other applicable federal, state or local regulations.
- E. As a condition of applying for a permit for a project, the developer shall allow, or provide, permission for city officials to enter the subject property to evaluate the proposal, conditions and the work.
- F. A Construction Permit for regulated activities to be done in conjunction with a subdivision or partition shall be reviewed with the construction drawings for the underlying development.
- G. Exceptions. The following work, even if it qualifies as a regulated activity, is exempt from obtaining a Construction Permit as otherwise required by this ordinance:
1. Residential landscaping and gardening activities up to 2,000 square feet in area; all other landscaping is subject to the requirements of this ordinance;
  2. Excavation for utility construction.
  3. Agricultural crop management of existing farmed areas.

4. Work needed to correct an immediate danger to life or property in an emergency situation as declared by the mayor or his/her designee.
- H. All Construction Permit applications shall include at least the following information, unless the City Engineer specifically grants an exemption. The City Engineer may require additional or different information as needed:
1. A site plan of the property and all adjacent land within 200 feet, drawn to an appropriate scale with sufficient dimensions, showing the general direction of all slopes, the locations of all property lines, roads, rights-of-way, easements, existing utilities, areas where clearing, grading, excavation or filling is proposed, boundaries of wetlands, high water line (100-year floodplain) line of water courses.
  2. An erosion control plan showing the types and locations of all erosion and sediment control facilities and measures, including all vehicle access points to and from the public right-of-way and vehicle wash-down areas. This plan shall also include a narrative that describes how the erosion and sediment control facilities and measures will be constructed, operated and maintained over time.
  3. Summary data for the project and site, including runoff volumes from impervious greater than 2,000 square feet, area estimates for all land to be cleared, filled or graded, volume estimates for all fills and excavations.
  4. All right-of-way improvements and new driveways shall include detail design drawings, and other information including horizontal and vertical geometry, materials, and tie-in to the existing street improvements.
  5. The City Engineer may require a grading or other plans to be prepared by a registered civil engineer where the disturbed area has an average slope of 20% or more, where the disturbed area is located in a geologic hazard area, or where more than 200 cubic yards of fill and/or excavation is proposed. Such a grading plan shall include the following additional information:
    - i. A geotechnical engineering report;
    - ii. Location of existing structures and buildings, including those within 25 feet of the development site on adjacent property;
    - iii. Design details for proposed retaining walls;
    - iv. Detailed plans and locations of all surface and subsurface drainage devices to be constructed.
  6. The City Engineer may require that the sedimentation and erosion control plan be prepared and signed by a registered civil engineer where the disturbed area is greater than one acre in size, or the disturbed area has an average slope of 20% or greater. The City Engineer may require that the stormwater runoff control plan be prepared by a registered civil engineer if the proposed runoff volume could have a significant impact on down gradient properties.

7. The City Council shall adopt, and may from time to time amend, by resolution a fee schedule for Construction Permits and related plan reviews and inspections.

**13.01.040. Grading Standards:** The review and approval of Construction Permits under this Ordinance shall be based on the conformance of the proposed development plans with the following standards. The City Engineer may impose any reasonable conditions of permit approval necessary to assure that the development plan meets the requirements of this Ordinance.

A. Excavations and cuts shall comply with the following:

1. The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;
2. Cuts shall not remove the toe of any slope where a potential landslide exists;
3. Cuts shall be set back from property lines so as not to endanger or disturb adjoining property; setbacks shall conform to the Oregon building code and with City zoning standards.
4. Any retaining walls shall be constructed in accordance with the applicable provisions of the Oregon State Structural Specialty Codes.

B. Fills shall comply with the following:

1. The slope of fill surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than two horizontal to one vertical;
2. Fills shall be set back from property lines so as not to endanger or disturb adjoining property; setbacks shall conform to any applicable provisions of the Oregon State Structural Specialty Codes and with City regulations.
3. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill;
4. Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practices.

C. Drainage. All property owners shall accept the normal or natural volume and velocity of stormwater runoff from up-gradient properties, allow the passage of that flow, and

maintain the normal or natural volume and velocity of stormwater flow onto down-gradient properties. Post-development rates of stormwater discharge shall not exceed pre-development rates. All cut and fill slopes shall be provided with subsurface drainage as necessary to maintain stability.

**13.01.050. Stormwater Runoff Control Standards:**

- A. The review and approval of Construction Permits for regulated activities subject to this ordinance shall be based on the conformance of the development plans with the standards of this section. The City Engineer may impose any conditions of approval needed to assure that the development plan meets the appropriate standards.
- B. Generally, the City stormwater runoff control standards are based on Low Impact Development (LID) techniques that minimize impervious surfaces and infiltrate stormwater on site. Tight line conveyance of stormwater onto adjacent property will be allowed only if there is no other feasible alternative and only if the proposed location and volume of runoff will not change.
  - 1. If the development proposes more than 2,000 square feet of impervious surface, the developer shall calculate the estimated runoff volume for the design storm specified by the City Engineer. The runoff volume shall be calculated as follows:  $\text{impervious area (sf)} \times 0.10 \text{ (ft)} = \text{runoff volume (cf)}$ .
  - 2. Infiltration facilities must be constructed capable of infiltrating the design storm runoff volume.
  - 3. If the development proposes less than 2,000 square feet of impervious area, the developer shall provide for and install industry standard LID facilities to control runoff from all impervious surfaces.

**13.01.060. Erosion and Sedimentation Control Standards:** The review and approval of Construction Permits for regulated activities under this ordinance shall be based on the conformance of the development plans with the standards of this section. The City Engineer may impose any conditions of approval needed to assure that the development plan meets the appropriate standards. The City Engineer may require modifications to the erosion and sedimentation control plan at any time if the plan proves to be ineffective in preventing the discharge of sediment onto surface waters, wetlands, the right-of-way, or adjacent property. To implement this section, the following standards shall apply:

- A. Natural vegetation should be retained and protected wherever possible.
- B. Stream and wetland areas shall not be disturbed.

- C. Sedimentation barriers, such as filter fences and straw bales, shall be placed to control sedimentation from entering streams, wetlands, or adjoining property. The sedimentation barriers shall be installed prior to site clearance or grading activities.
- D. Critical areas, as determined by the City Engineer, cleared of vegetation may be required to be temporarily stabilized with mulch, sod, mat or blanket in combination with seeding, or equivalent nonvegetative materials such as mat or blanket if in the opinion of the City Engineer such an area represents an erosion hazard. Prior to the completion of construction, all such slopes shall be permanently stabilized by seeding.
- E. Storm water inlets and culverts shall be protected by sediment traps or filter barriers.
- F. Soil storage piles or fill shall be located so as to minimize the potential for sedimentation of streams, wetlands or adjacent property. Where, in the opinion of the building official, a soil storage area or fill has the potential for causing sedimentation of streams, wetlands or adjoining property, the building official may require temporary stabilization measures.
- G. Temporary sedimentation control, not in conjunction with a structure, may be required.
- H. Erosion and sedimentation control measures shall be maintained during the period of land disturbance and site development in a manner that ensures adequate performance.
- I. The city may require a graveled entrance road, or equivalent, of sufficient length, depth and width to prevent mud from being tracked onto streets.
- J. Trapped sediment and other disturbed soils resulting from sediment control measures shall be removed or permanently stabilized to prevent further erosion and sedimentation.
- K. Measurable amounts of sediment that leave the site shall be cleaned up and placed back on the site or properly disposed of.
- L. All temporary erosion and sedimentation control measures shall remain in place until the disturbed area is stabilized with permanent vegetation.
- M. Under no conditions shall sediment from the construction site be washed into storm sewers, drainage ways or streams.
- N. A ground cover will be established on exposed soils as soon as possible after finish grading or construction is complete.
- O. The City Engineer may make periodic inspections to ascertain that erosion and sediment control measures as proposed have been implemented and are being effectively maintained.

**13.01.070. Access Standards:** Where development on private property abutting a right-of-way and requires access, the review and approval of Construction Permits for regulated activities

shall be based on the conformance of the development plans with the standards of this section. The City Engineer may impose any conditions of approval needed to assure that the development plan meets the appropriate standards. To implement this section, the following standards shall apply:

- A. The driveway access location, design, and restoration, shall comply with the requirements of the City Engineer.
- B. Access ways shall comply with the provisions of Chapter 4 of the Mosier Land Division ordinance where applicable.
- C. Driveways in approved subdivisions shall be constructed in accordance with any applicable design details approved as part of the subdivision design plans.
- D. No more than one driveway per lot is permitted.
- E. Driveway location shall comply with applicable spacing standards as specified in the Mosier Zoning Ordinance.
- F. Driveway grades shall be compatible with the adjoining roadway profile and shall be designed to prevent access conflicts, spacing problems or any similar safety problems relative to the right-of-way.
- G. Driveway design and construction shall be compatible with the existing public streets, sidewalks, shoulders, stormwater facilities or any other public facility in or near the right-of-way.
- H. Driveways shall not be allowed at locations that present a hazard on the roadway as determined by the City Engineer.

**13.01.080. Enforcement, Violations and Stop Work Orders:**

- A. All use and development of land within the Mosier Urban Growth Boundary shall conform to the requirements of this Ordinance.
  - 1. Any non-exempt use or development of land that involves a regulated activity and does not conform to the requirements of this Ordinance, or where a permit is required but none is obtained, is a violation of this ordinance and a civil infraction subject to civil enforcement and prosecution by the city.
  - 2. Any Construction Permit approved by the city, including any conditions attached thereto, shall become a binding requirement enforceable upon any land, owner or developer that is subject to such a permit. Any violation of, or failure to fulfill, any such conditions is also a violation of this Ordinance and a civil infraction subject to prosecution by the city.

3. The city shall not allow the development of land that does not conform to the requirements of this Ordinance.
  4. Before land may be put to any new use, or construction, or for which a permit is required by this or any other city ordinance, the property owner or that person's representative shall submit an application for the appropriate permit or approval. The applicant and property owner shall be responsible for the accuracy of all information submitted in support of any permit or land use application.
- B. The City Engineer or any authorized city official may issue a stop work order for any development under the authority of this subsection.
1. Whenever any activity is being done contrary to the provisions of this section, the City Engineer may order the work to be stopped immediately by written or verbal notice served on any person engaged in doing or causing such work to be done. Any person served with a Stop Work Order by the City Engineer shall immediately stop all work on the site as directed by the City Engineer. Once a Stop Work Order has been issued, no work shall commence on the site without the City Engineer first issuing an order to proceed with the work.
  2. The City Engineer may order the suspension of work on any project during periods of inclement weather to reduce actual or potential erosion and/or sedimentation. Any such suspension may be for a period of days or weeks during storm events or may, at the discretion of the City Engineer, involve the entire rainy season.
  3. The City Engineer may order work stopped because of inadequate on-site erosion or sedimentation controls. In that case, a revised and corrected erosion and sediment control plan shall be submitted to the City for review. Upon approval of the revised plans that show to the City Engineer's satisfaction that the deficiency will be corrected, the City Engineer shall lift the Stop Work Order.