



AGENDA COVER MEMO

Memorandum Date: July 21, 2023
First Reading Date: August 8, 2023
Second Reading / Public Hearing Date: August 22, 2023

TO: Board of County Commissioners
DEPARTMENT: Public Works / Land Management
PRESENTED BY: Louranah Janeski, Stormwater Permitting Specialist
Anne Davies, LCOG Consultant
Mauria Pappagallo, Environmental Engineering Supervisor
Rachel Serslev, Senior Planner
AGENDA ITEM TITLE: ORDINANCE 23-06 / In the Matter of Amending Lane Code to
Establish an Erosion Policy, Effective January 1, 2024 (LC
9.090.005 through 9.090.065, LC 10.091, LC 11.016, and LC
16.096)

I. MOTION

August 8, 2023 (1st Reading):

- 1) Move to approve the First Reading of Ordinance No. 23-06 and to set the Second Reading and Public Hearing for August 22, 2023 at 1:30 PM.

August 22, 2023 (2nd Reading and Public Hearing):

- 1) Move to approve Ordinance No. 23-06 as presented; OR
- 2) Move to set a Third Reading and continue the Public Hearing to (Date Certain) at 1:30 PM; OR
- 3) Move to set a Third Reading and continue the Public Hearing to (Date Certain) at 1:30 PM and direct staff to revise Ordinance No. 23-06 as directed by the Board (summarize revisions).

II. AGENDA ITEM SUMMARY

This is a request for Board approval of Ordinance 23-06 to adopt new erosion prevention code requirements for Lane County. The new erosion prevention standards are written to meet federally required conditions of the County's National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) Phase II permit and the Willamette River Mercury Total Maximum Daily Load (TMDL) Water Quality Management Plan. The NPDES MS4 Phase II permit requires that this ordinance be adopted as soon as possible as the deadline for adoption was February 28, 2023. This Ordinance will take effect January 1, 2024, to allow for education and training of the public and staff.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

In 2003, Lane County developed its original Stormwater Management Plan (SWMP) as part of the County's original individual National Pollutant Discharge Elimination System (NPDES) Phase II program. The program is a requirement of the federal Clean Water Act and is administered by the Oregon Department of Environmental Quality (DEQ). The SWMP was updated in 2007, and 2011. A new general permit was issued by DEQ in 2019 and the SWMP was most recently updated with DEQ on October 31, 2022. The establishment of an Erosion Prevention Program for development on properties is a requirement of the permit and the SWMP.

On March 10, 2004, the BCC approved Ordinance No. 2-04, which adopted the City of Eugene's erosion prevention code within the UGB of the City of Eugene. Adoption of the City's code allows the County to maintain IGAs with the City for them to issue and monitor erosion prevention permits within the City's UGB on behalf of the County.

In 2006, the Oregon DEQ developed the Total Maximum Daily Load (TMDL) limitation requirements for pollutants within the Willamette River. The establishment of the TMDL is a requirement of the Federal Clean Water Act (CWA) of 1972, as administered by the U.S. Environmental Protection Agency (EPA), who then grants authority to the DEQ. In Lane County, the Willamette River is water-quality-limited primarily due to elevated water temperatures and high bacteria and mercury levels. The TMDL requires Lane County, as a designated management area in the TMDL, adopt an Implementation Plan to address river health.

In 2008, the County developed our Willamette Basin 5-year Implementation Plan to improve water quality and meet the TMDL requirements set forth by DEQ in 2006. The TMDL 5-Year Implementation Plan was adopted by the BCC in 2008 and renewed on May 20, 2014, by Order No. 14-05-20-03. On August 7, 2020, it was determined that re-adoption through the BCC was not required and the Plan was renewed for another 5 years through memo to DEQ. In February of 2021, the

EPA approved DEQ's updated TMDL for mercury in the Willamette Basin. See the Attachments section for a link to the 2019 DEQ Final Revised Willamette Basin Mercury Total Minimum Daily Load and to the United States Environmental Agency's 2021 TMDL for Mercury for the Willamette Basin. The state and federal mercury TMDL standards required that the County update its Willamette River TMDL Implementation Plan. The County's update was completed and approved by DEQ on December 8th, 2022. The County's current 5-year monitoring period is from 2019 to 2024.

On June 9th, 2010, the BCC approved Ordinance No. 2-10, which adopted the City of Springfield's erosion prevention code within the UGB of the City of Springfield. Adoption of the City's code allows the County to maintain IGAs with the City for them to issue and monitor erosion prevention permits within the City's UGB on behalf of the County.

On November 11th, 2019; June 2nd, 2020; March 30th, 2021; and April 20, 2021, Public Works held BCC work sessions on aging stormwater infrastructure and increased environmental permitting requirements that are necessitating greater efforts and expenditures to manage and maintain the County's municipal stormwater system. See additional financial discussion below in Section D.

B. Policy Issues

OAR 340-045-0075 outlines the regulations pertaining to NPDES and Water Pollution Control Facility (WPCF) permits.

OAR 340-042-0025 outlines the regulations pertaining to the TMDL

LC 16.280(16)(d) provides the Goshen Stormwater Code for development within the Goshen Industrial zones (GI, LI).

LC 9.945 Adopts the City of Eugene erosion control code within the City's UGB.

LC 9.946 Adopts the City of Springfield erosion control code within the City's UGB.

LC 11.025 delegates authority to the City of Springfield to administer its building regulations on urbanized land within its UGB.

LC 11.026 delegates authority to the City of Eugene to administer its building regulations on urbanized land within the UGB.

Board Order 03-3-12-4, the BCC authorized entering into the necessary intergovernmental agreements to satisfy requirements under NPDES Phase II permit. This Board Order resulted in NPDES Stormwater IGAs with the Cities of Eugene and Springfield to support stormwater functions within their respective UGBs.

Eugene-Springfield Metropolitan Area General Plan (Metro Plan)

- Policies G.14 to G.20 which focus on developing regulation or instituting programs for stormwater to:
 - Improve water quality and quantity problems
 - Manage and enhance waterways and open stormwater systems
 - Minimize impervious surfaces in new development
 - Minimize floodplain impacts

C. Board Goals

This action is aligned with Lane County's 2022-2024 Strategic Plan Priority 2: Vibrant Communities. Specifically, it aligns with Section B, *to focus on the intersection of economic development, equity and the environment as we look to achieve a viable, fair and livable community.*

D. Financial and/or Resource Considerations

The County's National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II General Permit, issued in 2019, requires the establishment of an Erosion Prevention Program for construction on properties, including review and permitting, inspections, tracking and reporting, and public and staff education. The managed area must extend beyond the City UGBs, encompassing a much larger area than the currently managed zone of just the City UGBs. See the Lane County NPDES MS4 Phase II Area map in the Attachments, Attachment 3. These new requirements will have significant financial impacts and will require a significant amount of staff time.

Implementing stormwater program requirements for private development will require the use of additional funds other than those currently in use for current erosion prevention expenses. Lane County Public Works currently manages the stormwater permit program cooperatively, using various program funds spread across several divisions. The Road & Bridge Maintenance Division bears the majority of the County's stormwater expenses in maintaining the stormwater infrastructure in the right-of-way. Yet, new permit requirements now extend to structures and water features outside of roadways and on to private development. Expenses to manage stormwater features out of the right-of-way are not eligible Road Fund expenses and must be funded by other means.

Lacking dedicated stormwater funding, erosion prevention has been focused on UGB areas where the County could meet stormwater requirements through IGAs with the Cities of Eugene and Springfield. Historically erosion prevention IGA costs have been on the order of \$37,000 per year. These expenses will continue as the erosion prevention requirements continue to be enforced in the UGBs through IGAs.

With the implementation of permitting requirements, additional funds will be raised through permit fees. Staff have run estimates on the numbers and types of permits expected, and the projected fee revenue. Staff estimates there will be approximately 80 erosion prevention permits coming in each month. Permit costs will be based upon the type of construction, the amount of soil disturbed, and the location of the disturbance. Permit fees are estimated to be approximately \$30,000 to \$40,000 per month. The permit fee schedule is currently under review and will be proposed to the Finance & Audit Committee if the ordinance is approved. Currently, the County does not have a stormwater utility fee (as do many other jurisdictions) to assist in the support of the stormwater program. Thus, the Erosion Prevention Program will rely more heavily upon permit fee collection.

During previous work sessions, the BCC approved continued work on a stormwater utility feasibility study to assist with the increased effort associated with the new permit requirements. The feasibility study is on hold until the requirements of the erosion prevention and post construction stormwater management code requirements can fully be realized through the creation of their respective ordinances and programs.

Two staff, at a minimum, will be needed in the Land Management Division to run the Erosion Prevention Program. These two positions are likely a minimum number needed to support LMD stormwater review. These staff will also be responsible to establishing and running the post-construction stormwater management program, which is the next permitting program required by the County's NPDES MS4 permit. Once post construction stormwater code is adopted, these stormwater staff will likely need additional assistance.

E. Health Implications

The proposed erosion prevention will help to protect the environment and the health and safety of Lane County residents and workers by protecting the waters of the United States from toxins, pollution, and sedimentation caused by construction processes. The new erosion code will work in concert with land use, building, and sanitation codes to ensure clean and environmentally safe construction sites.

F. Analysis

The proposed erosion prevention changes to Lane Code Chapter 9 are new measures designed to meet federal Environmental Protection Agency requirements to protect the waters of the United States. The Oregon Department of Environmental Quality (DEQ) administers the federal standards through Oregon Revised Statute (ORS) 468B and the associated Oregon Administrative Rules (OARs). The County's Public Works Department, in turn, manages County compliance through stormwater-related plans and permits that are assessed and reported to DEQ on a regular basis.

The County maintains two permits through the DEQ that are the drivers for the proposed erosion prevention standards: the NPDES MS4 Phase II permit and the Willamette River TMDL permit.

The National Pollutant Discharge Elimination System (NPDES) Municipal Storm Sewer System (MS4) Phase II Permit (See the link in the Attachments section.) requires the implementation by the County of six control measures to prevent contaminants from reaching our rivers and streams via stormwater runoff. One of these measures is the control of construction site runoff. The County is required to adopt regulations that prevent and control erosion, sedimentation, and soil loss during land clearing, grading, and other construction-related soil disturbance activities. The County first adopted its Stormwater Management Plan (SWMP) in 2007 and has been expanding its scope and application as the federal regulations have increased.

In previous years, the permit area extended only to the urban growth boundaries of Eugene and Springfield. In the new permit, issued by OR DEQ in 2019, the County is responsible for implementing permit requirements for the U.S. Census-defined Urbanized Area (hereafter referred to as the “MS4 area”) that incorporates the UGBs of Eugene and Springfield as well as an area outside of and near to these boundaries. See the Lane County NPDES MS4 Phase II Area map, Attachment 3.

Historically, the County has relied upon inter-governmental agreements (IGAs) with the Cities to have them administer the stormwater program within the UGB areas. This has been a cost-effective approach for the County. The current MS4 permit requires that the County adopt erosion prevention codes within the MS4 Urbanized Area outside of the Eugene and Springfield UGBs as well.

The Total Maximum Daily Load (TMDL) program requires that all agencies within the Willamette River watershed reduce pollutant loading for parameters of mercury, temperature and bacteria. It is of note that the Willamette River watershed encompasses approximately 75% of Lane County and is the largest watershed in the state. Lane County adopted its first TMDL Implementation Plan in 2008 and most recently updated last year. The Willamette River TMDL includes new requirements for counties, one of which is the implementation of an erosion prevention program. This program must incorporate erosion control requirements into county building and grading permit applications and require erosion, sediment, and waste material management controls be used and maintained at construction sites. The mid-coast watersheds TMDL is in process and the Siuslaw River TMDL is planned in the future. These watershed requirements will eventually impact the entire County.

The 2019 NPDES MS4 Phase II permit requires implementation only within the MS4 area, while the 2021 Willamette River TMDL requires erosion prevention code be developed within the watershed boundary. These combined permit requirements, in conjunction with coastal erosion concerns, upcoming Mid-Coast

Watersheds and Siuslaw River TMDLs, and the need for customer-friendly clear and consistent regulations, resulted in the Stormwater Policy Team determining that county-wide code adoption was the best approach. The Stormwater Policy Team that directed the composition of the proposed code included the Public Works Director, Division Managers for each Public Works Division, and Facilities staff.

The County's MS4 Phase II permit requires the establishment of erosion prevention code requirements and erosion permit and plan review programs, including education and training, erosion control sediment plan (ECSP) review, construction site inspections, final stabilization inspections, enforcement procedures, and tracking and assessment measures.

The erosion prevention program and permitting structure are strategically developed to optimize County resources and to minimize applicant requirements. Permit triggers, permit costs, and the amount of paperwork that must be submitted will be based upon the size and type of the project and its location. A tiered permit system will be created. Larger and potentially more impactful projects will engender a greater number of customer requirements and a larger amount of staff time; the fees for these larger and more impactful projects will be larger. Less impactful projects that require permits will have smaller fees, as they tend to be easier to account for erosion prevention and require less staff time. It should be noted that, unless a project is otherwise exempted, all soil-disturbing activity must meet the erosion prevention outcomes of protecting waterbodies, minimizing erosion, controlling unavoidable erosion, guarding against the release of toxins and pollution, and stabilizing the construction site once the development is complete. These outcomes must be met, whether an erosion prevention permit is required or not, and whether a development permit is required or not.

The proposed erosion prevention regulations will be located in Lane Code Chapter 9, Environment and Health. The new Code will apply county-wide to all soil-disturbing activities on properties, unless otherwise exempted. Soil disturbances in the public right-of-way will continue to be covered under Chapter 15 of the Code. The County will also maintain current intergovernmental agreements with the Cities of Eugene and Springfield for their continued administration of their respective City erosion prevention requirements in their urban growth boundaries. Lane County erosion prevention regulations will be enforced through Chapter 5, which employs an administrative penalties matrix that provides for escalating enforcement.

G. Alternatives/Options

The County is required to adopt erosion prevention standards per our MS4 Phase II permit. See the link to the County's MS4 Phase II permit in the Attachments section. The permit contains specific requirements that must be enacted as a part of

the County's code and associated construction site runoff control program. While some revision may be approvable of the portions of code that were proposed by the Stormwater Policy Team and staff, those standards required by the MS4 Phase II permit are federally required and must be adopted.

Options for how to proceed forward are:

- 1) Move to approve Ordinance No. 23-06 as presented; OR
- 2) Move to set a Third Reading and continue the Public Hearing to (Date Certain) at 1:30 PM; OR
- 3) Move to set a Third Reading and continue the Public Hearing to (Date Certain) at 1:30 PM and direct staff to revise Ordinance No. 23-06 as directed by the Board (summarize revisions).

4) RECOMMENDATION

Staff recommends adoption of Option 1, to adopt the proposed Ordinance as presented.

5) TIMING/IMPLEMENTATION

If approved, the Code changes will become effective January 1st, 2024. Staff is extending the standard 30-day implementation period to allow for additional program preparation time and staff training, customer education, and customer planning time to prepare for the 2024 summer construction period. Staff are already in the process of developing an erosion prevention manual to assist customers with permit submittal requirements. In order to comply with the County's NPDES permit, the erosion prevention Ordinance needs to be adopted as soon as possible, as the MS4 Phase II permit required adoption date was February 28, 2023. The Willamette River TMDL requires adoption of code by June of 2024.

The related Ordinance for adoption of the revised Eugene erosion prevention Code to be applied by Eugene in the urban growth boundary will be brought to the Board for approval within the next few weeks.

The Ordinance for the adoption of the revised Springfield erosion prevention Code to be applied by Springfield in the urban growth boundary will be brought to the Board for approval within the next few months, once the City has completed its Code revisions.

6) FOLLOW-UP

If the Ordinance is enacted, it will go into effect on January 1, 2024. Upon enactment of the Ordinance, staff will propose a schedule of fees to the Finance & Audit Committee. Staff will conduct public outreach regarding the upcoming permit requirements.

If the Ordinance is not enacted, additional communication with DEQ will be required to describe why we are not meeting permit conditions. Lane County may be subject to ongoing fines for non-compliance with the permit.

7) ATTACHMENTS

1. Ordinance No. 23-06 with the following Exhibits:

Exhibit A: Amendments to Lane Code Chapter 9

Exhibit B: Amendments to Lane Code Chapters 10, 11, and 16

2. Order No. 23-08: Amendments to Lane Manual

3. Lane County NPDES MS4 Phase II Area Map

To conserve paper, the following reference materials may be viewed at the following links:

- [2021 NPDES MS4 Phase II General Permit Modified](#)
- [2021 Willamette River Mercury TMDL – EPA](#)
- [2019 Willamette Basin Mercury TMDL - DEQ](#)

ATTACHMENT #1

Ordinance No. 23-06 with the following Exhibits:

- ♦ Exhibit A: Amendments to Lane Code Chapter 9
- ♦ Exhibit B: Amendments to Lane Code Chapters 10, 11, and 16

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 23-06

IN THE MATTER OF AMENDING LANE
CODE TO ESTABLISH AN EROSION
POLICY, EFFECTIVE JANUARY 1, 2024
(LC 9.090.005 through 9.090.065, LC
10.091, LC 11.016, and LC 16.096)

The Board of County Commissioners of Lane County ordains as follows:

Lane Code is amended effective January 1, 2024, by removing, substituting and adding the following sections:

REMOVE THESE SECTIONS

9.090.005 – 9.090.010
NONE
NONE
NONE

INSERT THESE SECTIONS

9.090.005 – 9.090.065
10.091
11.016
16.096

These sections are attached hereto and incorporated herein by this reference. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion constitutes a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions hereof.

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

These changes are effective January 1, 2024.

ENACTED this ____ day of _____ 2023.

Pat Farr, Chair
Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
Date _____ Lane County

OFFICE OF LEGAL COUNSEL

ATTACHMENT #1, Exhibit A

9.090 – EROSION PREVENTION

9.090.005 – Purpose.

The purpose of this Erosion Prevention Code is to safeguard public health, safety, and welfare by protecting the quality of surface and subsurface waters for drinking water supply, recreation (such as fishing) and other beneficial uses through the application of best management practices (BMPs) for erosion prevention. This Code is intended to meet both the conditions of the County National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Phase II permit and the Willamette River Mercury Total Maximum Daily Load.

9.090.010 – Definitions.

“Accumulation” means the deposit of mud, sand, soil, sediment, or construction materials.

“Adjacent Property” means property that adjoins the subject property on which the construction site is located, and is potentially subject to erosion, accumulation, or construction material impacts resulting from the construction activity.

“Area of Disturbance” or “Disturbance Area” means a unit of land or portion of a unit of land with land disturbance. See also “Land Disturbance.”

“Best Management Practices (BMPs)” means schedules of activities; prohibitions of practices; maintenance procedures; and other physical, structural, or managerial practices that are implemented to avoid or mitigate erosion and prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment controls, source controls, and operating procedures and practices to control site runoff, spillage or leaks, and waste disposal.

“Certified Professional” means a person with a background or training in erosion prevention techniques and who holds a license or certification to practice in Oregon in one of the following professions: engineering, architecture, landscape architecture, geology, or is in a similar profession as determined by the County Director; or a person who is certified as a professional in erosion and sedimentation control by the International Erosion Control Association, or any other similar organization, as determined by the County Director.

“Common Erosion and Sediment Control Plan” means an erosion and sediment control plan for a common plan of development.

“Common Plan of Development” means a contiguous construction project or projects where multiple separate and distinct construction activities may be taking place at different times or phases on different schedules but under one plan. Common plans of development include plans to construct multiple improvements on a lot (e.g., a dwelling and a detached garage) and plans to subdivide parcels of land. Floodplain fill/removal permits and electrical, plumbing, and mechanical permits may also be included in the common plan of development.

“Construction-Related Materials” means potential water quality pollutants that are used or created during construction activities including, but not limited to, off-site deposits of sediments by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood, paints and thinners, packaging materials, insulation, plaster grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, thinners); pavement saw-cutting effluent; and concrete washout.

“Construction Site Management Plan” see Erosion and Sediment Control Plan.

“County Director” or “Director” means the Director of the Lane County Department of Public Works or the Director’s designee.

“Development Site Plan” means the site plan required by the County as part of an application for building, sanitary, planning, or erosion prevention approval. Site plans must show all existing and proposed conditions and improvements so that staff may review the proposed development and its impacts; determine permitting requirements; and apply policies, regulations, and code requirements accordingly.

“Disturbance” see “Land Disturbance.”

“Ephemeral Flow” means water that flows only during, and for a short duration after, precipitation events in a typical year. Sources for ephemeral flow do not include groundwater.

“Erosion” or “Construction Erosion” means the collapse, undermining or subsidence of land that is accelerated when soil is disturbed, left bare, or exposed to wind and water during the construction process or due to land disturbance.

“Erosion and Sediment Control Plan (ESCP)” or “Erosion Prevention Plan” means a set of plans, schedules, sizing calculations, and maintenance practices indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

“Final Stabilization” means the condition in which all soil disturbing activities at the site have been completed and either of the two following criteria are met:

A. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

B. Equivalent approved permanent stabilization measures have been employed.

“Floodplain” means the Special Flood Hazard Area (SFHA), as identified by the Flood Insurance Rate Maps adopted by the County as part of LC 16.244.

“Hazardous Material” or “Toxic Material” means substances or chemicals that pose a health hazard or a physical hazard, or that harm the environment.

“Highly Erodible Soil” means soil that, when exposed or displaced by construction activity, has the potential to be readily moved and transported by wind and water at an excessive rate.

“Improper Disposal” means the disposal of any construction-related material in a manner that causes, or has the potential to cause, the depletion of the capacity of the County’s stormwater system; the contamination of soils; or the discharge of pollutants to the County’s stormwater system, private stormwater drainage systems, or related natural resource areas.

“Improper Storage” means the handling or storing of any construction-related materials in a manner that, due to leaks, spills, leachates, deposits, or dumps, causes or has the potential to cause the depletion of the capacity of the County’s stormwater system; the contamination of soils; or the discharge of pollutants to the County’s stormwater system, private stormwater drainage systems, or related natural resource areas.

“Intermittent Flow” means water that flows during certain times of the year and is supported by groundwater flow. During dry periods, intermittent flow streams may not have flowing surface water.

“Land Disturbance” or “Disturbance” means activities that change the physical conditions of landforms, vegetation, and/or hydrology, including, but not limited to, digging, clearing, grading, grubbing,

excavating, filling, logging, and the storing of materials. Such disturbance may be on-going (e.g., gravel mining, farming, gardening,) or temporary (e.g., construction, excavation, filling, grading, landscape installation, or other vegetative clearing activities).

“Landscaping Maintenance Activities” means activities necessary to maintain the health and function of existing, developed landscaped areas, including but not limited to, tilling, sodding, mowing, aerating, and pruning.

“Maximum Extent Practicable” means the greatest degree of pollutant reduction achievable through the application of technically feasible and reasonable best management practices, processes, siting criteria, operating methods, or other alternatives approved by the County Director.

“Outcomes” means the results of employing, to the maximum extent practicable, erosion prevention and construction site management practices, during both the construction period and the wet weather season.

“Person” means an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state and any agency thereof, political subdivision of the state, interstate body, or the federal government, including any agency thereof.

“Phased Development” means a development project that:

- A. Proposes more than one improvement requiring a County permit,
- B. Is located on a single piece of property or an assemblage of contiguous properties,
- C. Will begin and be completed at different times, and
- D. Is proposed for development by the same person, or by related persons.

“Private Way” means any street, road, alley, right-of-way, or easement that is intended for passage by vehicles, bicycles, or pedestrians, or is intended to provide for ingress and egress to land that is not controlled by a city, the County, or the State. A “private way” includes:

- A. A driveway,
- B. The portion of a panhandle lot or property that is used for access purposes, and
- C. A road or driveway used for access purposes in which the underlying fee belongs to two or more persons or entities.

“Public Way” means any street, road, alley, right-of-way, pedestrian or bicycle easement, storm drainage easement, wastewater or sanitary sewer easement, or other utility easement for public use which is controlled by a city, the County, or the State.

“Related Natural Resource Areas” means areas such as waterways, wetlands, conservation zones or easements, and riparian areas, which, due to their location, topography, vegetation, or other factors, provide one (1) or more of the following stormwater functions: flood control; habitat; streambank stabilization; and water quality treatment, including pollutant removal, shading, and temperature stabilization.

“Responsible Person” means a permit holder, property owner, or their agent or contractor, or other person who is responsible for meeting the erosion prevention outcomes, and is responsible for any violation of this Erosion Prevention Code.

“Riparian Area” means the land bordering a water feature, acting as a transitional area between terrestrial and aquatic ecosystems, distinguished by wet or moist soils and plants adapted to growing conditions associated with periodically saturated soils.

“Routine Maintenance” means activities and practices that are necessary to maintain the operating capacity, functional integrity, or aesthetics of a place or facility. Routine maintenance includes, but is not limited to, landscaping, the repair of recreation facilities (e.g., ball diamonds, play areas, fields), the cleaning of stormwater facilities, and the patching of roads and driveways.

“Slope” means the extent to which a soil surface has an incline relative to the horizontal grade. Expressed in percentage terms, slope represents the elevation change (rise) divided by the horizontal distance (run) between two (2) different points.

“Stormwater” or “Stormwater Runoff” means water that flows off of impervious surfaces and/or over the ground surface as a result of naturally occurring precipitation, such as a snowstorm or rainstorm, and does not infiltrate into the soil.

“Stormwater System” or “Stormwater Sewer System” or “Storm Drainage System” means a drain and collection system, which may include roads, ditches, channels, pipes, culverts, catch basins, and manholes, that collects naturally occurring precipitation or stormwater runoff. The stormwater system is not a combined sewer system and does not include conveyance of any wastewater.

“Top of Bank” means the point along the edge of a water feature where an abrupt change in slope is evident, and where the water feature is generally able to overflow the banks and inundate upland areas during flows at or exceeding the average annual high water stage.

“Visible or Measurable Erosion” means evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or evidence of on-site erosion such as rills and gullies on bare soil slopes where the flow of water is not filtered or captured on the site using the techniques recommended in the County’s Erosion Prevention Manual, an approved erosion and sediment control plan, or comparable techniques. Visible or measurable erosion also includes earth slides, mud flows, earth sloughing, or other earth movement that leaves the property.

“Watercourse” means a natural or human-made channel, as measured from top-of-bank to top-of-bank, in which a flow of water occurs, either continuously, intermittently, or ephemeral, with some degree of regularity.

“Water Feature” means natural or human-made bodies of water (either perennial, intermittent, or ephemeral flow), including creeks, streams, ponds, rivers, lakes, related natural resource areas, drainage channels, jurisdictional wetlands, and post-construction stormwater management facilities.

“Wetland” means any parcel or portion of a parcel that meets the state or federal definition of wetland under the jurisdiction of state or federal laws. Synonymous with jurisdictional wetlands.

“Wet Weather Season” means October 15 through April 30, unless otherwise designated by the County Director.

9.090.015 - Applicability.

- A. The provisions of this Erosion Prevention Code apply to all new development, redevelopment, land-disturbing activities, and drainage projects that occur on property outside the urban growth boundaries of the City of Springfield and the City of Eugene, and outside the incorporated areas of other cities in Lane County. Erosion prevention requirements for land-disturbing activities located on public rights-of-way will be regulated by LC Chapter 15.
- B. Lane County has adopted by ordinance the City of Eugene’s erosion prevention regulations and the City of Eugene will apply those regulations within the Eugene Urban Growth Boundary, as set forth

in LC 10.600-20. Copies of the applicable erosion prevention regulations will be on file at the Lane County Land Management Division.

- C. Lane County has adopted by ordinance the City of Springfield's erosion prevention regulations and the City of Springfield will apply those regulations within the Springfield Urban Growth Boundary as set forth in LC 10.600-10. Copies of the applicable erosion control regulations will be on file at the Lane County Land Management Division.

9.090.020 - Exemptions.

Notwithstanding LC 9.090.015A, the following activities are exempt from the provisions of this chapter.

- A. Activities that constitute a "farm use" as defined by ORS 215, except the construction of buildings and the development of associated private ways and parking areas, and floodplain fill/removal permits to create construction sites for such improvements.
- B. Forest practices regulated under the Oregon Forest Practices Act, except conversions from timber to other uses, so long as such forest practices are in compliance with Oregon Department of Forestry rules regarding protection of water quality.
- C. Excavations for gas or oil facilities for which the operator demonstrates compliance with Title 40 Code of Federal Regulations 122.26.
- D. Mining activities conducted under permits issued by the Oregon Department of Geology and Mineral Industries.

9.090.025 - Erosion Prohibited.

All new development, redevelopment, land-disturbing activities, and drainage projects must prevent and/or control erosion, sedimentation, and other construction-related impacts to stormwater quality to achieve the outcomes specified in LC 9.090.030. All erosion prevention measures must be in place and in working condition prior to conducting any activities covered by this Erosion Prevention Code.

9.090.030 - Outcomes.

- A. Target Outcomes. All persons conducting activities covered by this Erosion Prevention Code must employ, to the maximum extent practicable, erosion prevention and construction site management practices that will achieve, during both the construction period and the wet weather season, the following outcomes:
 - 1. Public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater treatment systems, and related natural resource areas are kept free of deposits or discharges of soil, sediment, and concentrated runoff flows from the site except those that would occur through natural processes from an undisturbed site.
 - 2. Vegetation in water features, related natural resource areas, and associated bank and/or riparian areas adjacent to construction sites are preserved or protected from impacts that exceed those that occur through natural processes on an undisturbed site.
 - 3. Public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater treatment systems, and related natural resource areas are kept free of construction-related pollution and debris, including mud, concrete washout, trash, and other

contaminants resulting from construction activities including, but not limited to, vehicle movement; material storage; and the cleaning or washing of equipment, tools, and vehicles.

4. Soils, stockpile areas, and clearing debris piles must not be exposed to precipitation or stormwater runoff without the provision of secondary containment, perimeter controls, or other approved BMPs.
 5. Earth slides, mudflows, earth sloughing, or other earth movement which may leave the property must not occur in excess of that which occurs through natural processes on an undisturbed site.
 6. No discharge into public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater systems, and related natural resource areas of construction-related stormwater runoff containing contaminants resulting from activities such as, but not limited to, cleaning or washing of equipment, tools, or vehicles, is permitted to occur.
 7. Hazardous substances, such as paints, thinners, fuels, and other chemicals will not be released onto the site, adjacent properties, or onsite wastewater treatment systems, or into water features, public and private stormwater systems, or related natural resource areas.
 8. The use of plastic and petroleum-based materials in BMPs is limited to temporary installations that can be removed easily and completely prior to final stabilization. Plastic and petroleum-based products may not be left in the landscape to deteriorate.
 9. At final stabilization stage, long-term erosion or sediment accumulation are not permitted to occur.
- B. Use of Best Management Practices (BMPs).
1. When designing and implementing best management practices (BMPs) to meet the above outcomes, the following phases of work will be considered:
 - a. Site Planning. Developing a work plan for construction that incorporates appropriate erosion prevention.
 - b. Mobilization. Preparing the site such that erosion prevention measures are installed prior to beginning land disturbing activities.
 - c. Construction. Adjusting erosion prevention BMPs such that they address any changing construction site conditions to meet the above outcomes.
 - d. Final Stabilization. Ensuring that all disturbed areas are appropriately stabilized upon completion of land disturbing activities.
 2. Best management practices, along with guidance for their design, installation, and use, are included in the Lane County Erosion Prevention Manual.
- C. The responsible person must consider the seasonal variation of rainfall, temperature, and other climatic factors relative to the timing of land disturbance activities. All construction activity that will result in soil disturbance during the wet weather season will, at a minimum, prepare for wet weather conditions by:
1. Maintaining additional BMP materials on site in order to respond immediately to changing conditions.
 2. Graveling construction site entrances with crushed rock of sufficient size and grading as necessary to prevent off-site tracking.
 3. Protecting all related natural resource areas, stormwater facilities, and water features.

4. Covering all exposed stockpile areas not protected by approved perimeter controls.
5. Conducting wet weather monitoring of BMPs and conducting inspections the day following a storm.
6. Providing temporary stabilization anytime an area will not involve active construction activities for more than five (5) consecutive days.

9.090.035 – Issuance of Permit Not Proof of Compliance.

A permit or other approval issued through these rules may not be construed as authorizing any violation of the above outcomes or wet weather requirements.

9.090.040 – Erosion Prevention Permits.

A. Permit Required.

1. Except as otherwise provided by Lane Code, an erosion prevention permit is required for any land disturbing activity that:
 - a. Requires a Department of Environmental Quality (DEQ) 1200-C Construction Stormwater General Permit and such permit has been obtained; or
 - b. Disturbs one quarter ($\frac{1}{4}$) acre or more of land or involves the movement of two hundred (200) cubic yards of soil or more; or
 - c. Is conducted on land with one (1) or more of the following:
 - (1) Is located within the floodplain;
 - (2) Contains highly erodible soils or slopes of fifteen percent (15%) or greater;
 - (3) Involves commercial, industrial, or multi-unit residential development or is located on a property that is zoned for commercial or industrial activities;
 - (4) Is located within fifty (50) feet of a water feature.
2. For purposes of LC 9.090.040A.1.c(4), the fifty (50) feet will be measured from the closest point of the boundary of the jurisdictional wetland to the regulated activity. For watercourses where the County has previously determined the “ordinary highwater mark” per LC 16.253, that mark is the point from which the fifty (50) feet is measured. Otherwise, the point from which the fifty (50) feet is measured will be the top of bank.
3. Notwithstanding LC 9.090.045B.3, a separate erosion prevention permit will be required for each project covered by a common plan of development.
4. Where an erosion prevention permit is required, no person may commence any land disturbing activity without first obtaining the required permit.

B. County Soil and Contour Maps.

1. To determine when an erosion prevention permit is required, the County will prepare a map showing contours and highly erodible soils located within the County. The County will use the map to make a preliminary determination of the slope and soil erodibility of the property to be developed. The map will be available for public review.

2. An applicant may challenge the County's preliminary determination that a site contains highly erodible soils or has a slope of fifteen percent (15%) or greater through submission of field information from a certified professional that demonstrates that the determination is inconsistent with the criteria in LC 9.090.040A.1.

If an applicant chooses not to contest the designation or is unable to satisfy the above criteria, an erosion prevention permit will be required.

- C. Exceptions. Notwithstanding any other provisions of this Erosion Prevention Code, the following land disturbing activities do not require an erosion prevention permit:

1. Routine maintenance of driveways, private ways, parking areas, parking lots, and paved or graveled storage areas (including the pavement maintenance practices listed below) that does not:
 - a. Alter the existing function or patterns of runoff, or
 - b. Violate LC 9.021 (Illicit Discharge).

The following pavement maintenance practices are considered routine maintenance: pothole and square cut patching, crack sealing, management of vegetation within a private road or easement area, overlaying existing asphalt or concrete pavement without expanding the existing area of coverage, shoulder and drainage system regrading, and resurfacing with in-kind material without expanding the road prism.

2. Home gardening and landscaping maintenance activities, unless such activity takes place within fifty (50) feet of a water feature.
3. Activities that are regulated by this Erosion Prevention Code may commence without complying with the requirements of this Code if the Director determines there is a hazard posing imminent danger to life or property, such as substantial fire hazards, risk of flood or other emergency. However, upon determination by Director that such emergency has passed, the provisions of this Code apply.

- D. Permit Classifications. The County Director may issue the following types of erosion prevention permits.

1. Tier 1. This permit applies to a property owner or agent conducting activity that satisfies LC 9.090.040A.1.a. An application for a Tier 1 permit requires submittal of a copy of the approved DEQ 1200-C Construction Stormwater General Permit and erosion and sediment control plan.
2. Tier 2. This permit applies to a property owner or agent conducting activity that satisfies LC 9.090.040A.1.b or LC 9.090.040A.1.c(1) – (3) and where a 1200-C permit has not been obtained through DEQ. An application for a Tier 2 permit requires the submittal of an erosion and sediment control plan.
3. Tier 3. This permit applies to a property owner or agent conducting activity that is located within fifty (50) feet of a water feature and where a Tier 1 or a Tier 2 permit is not required. This permit requires submittal of the development site plan.

- E. Fee. Fees for erosion prevention Tier 1, Tier 2, and Tier 3 permits will be established by the Director. Application fees must be paid when the application is submitted to the County.

- F. Review Criteria and Approval. If the County finds that the proposed activities will result in visible or measurable erosion, or will otherwise violate the outcomes set forth in LC 9.090.030, the County must deny the permit. The County will approve the application or approve the application with

conditions if the County finds that the proposal, with any reasonable conditions, will not result in visible or measurable erosion, and will satisfy the outcomes.

- G. Conditions of Approval. Every erosion prevention permit will include standard conditions and any special conditions determined to be necessary to satisfy the outcomes. The County may require, as a condition of approval, that the responsible person obtain a bond, letter of credit, or other guarantee to ensure compliance with erosion prevention requirements.
- H. Issuance of Permit.
 - 1. Compliance with the requirement to obtain a permit under this Erosion Prevention Code does not in any way imply, either directly or indirectly, compliance with any other requirement of the Lane Code, nor does it relieve any person from the obligation to comply with regulations or permits of any other federal, state, or local authority.
 - 2. The application and processing of other County development permits, such as, but not limited to, floodplain removal/fill, agricultural, building, and onsite wastewater treatment system permits, are interdependent with the erosion prevention permit process. The County will not issue any of these other permits:
 - a. Until the County has approved for installation, conducted a site inspection if necessary, and issued a required erosion prevention permit, unless the County has determined an erosion prevention permit is not required; or
 - b. If the property owner or permit applicant is in violation of an erosion prevention permit, or any conditions contained therein.
 - 3. No erosion prevention permit requiring an erosion prevention and sediment control plan will be issued without prior submittal and review of the plan requirements set forth in this Erosion Prevention Code.
 - 4. As a condition of erosion prevention permit issuance, the responsible party agrees to allow all inspections to be conducted.
 - 5. Where a bond, letter of credit, or other guarantee is required, the erosion prevention permit will not be issued until the bond or guarantee has been obtained and approved.
- I. Permit Duration.
 - 1. Permit Period of Validity. An erosion prevention permit will be valid for one (1) year from the date of issuance. The permit may be renewed for additional periods of one (1) year during the course of construction. Once construction has been completed, the permit may be renewed for additional one (1) year periods up to, but not to exceed, two (2) years after completion of the construction activities, if the County determines the extension is necessary to ensure that construction activity has stabilized in accordance with the outcomes listed in these rules.
 - 2. Renewal/Extension.
 - a. The responsible person must submit a permit renewal application form and fee at least thirty (30) days prior to expiration of the current permit.
 - b. The Director will review the request and the current status of erosion prevention at the site and may approve the request if conditions are substantially consistent with the original erosion and sediment control plan.
 - 3. Expiration. Expiration of an erosion prevention permit that has not received final inspection approval (including confirmation of final stabilization) is a violation of this Code.

- J. Transfer of Ownership. Upon receiving an application filed upon the appropriate County form, the County may approve the transfer of an Erosion Prevention Permit where:
1. The new permittee is the owner of the property where the permitted erosion prevention measures are occurring or will occur;
 2. The permit has not expired;
 3. Conditions have not changed since the permit was issued; and
 4. The new permittee certifies in writing, on a form designated by the County, that they will comply with the permit as approved.

9.090.045 – Erosion and Sediment Control Plan.

- A. Plan Required. An application for a Tier 1 or Tier 2 erosion prevention permit must submit with the application an erosion and sediment control plan that meets the requirements of LC 9.090.045B.
- B. Requirements of Plan.
1. The erosion and sediment control plan must:
 - a. Describe the techniques and methods, including best management practices for wet weather conditions, used to achieve the required outcomes, prevent erosion, and control the discharge of pollutants at the various stages of development;
 - b. Show and describe conditions before, during, and after development. All proposed phasing and stages of construction, including grading and utilities, must also be shown. Multiple plan sheets may be required to accurately and clearly show all BMPs and all stages or phases of development;
 - c. Include sizing criteria and design specification drawings for each BMP chosen;
 - d. Include performance criteria for each chosen BMP and operation and maintenance requirements, including appropriate inspection intervals and self-inspection checklists; and
 - e. Demonstrate the methods to be used to achieve final stabilization of the site following the completion of land disturbing activities.
 2. For Tier 1 permits, the erosion and sediment control plan must be prepared by a certified professional who must certify that, in their professional opinion, implementation of the plan will ensure compliance with the outcomes set forth in LC 9.090.030.
 3. An erosion and sediment control plan for a common plan of development may be submitted for multiple development permits on one or more lots or parcels that are under the same ownership and are being developed at the same time.
 4. More detailed information about erosion and sediment control plans may be found in the Lane County Erosion Prevention Manual. This Manual will be maintained by the County.
- C. Implementation of Plan.
1. The responsible person or their agent must install, perform, and maintain the best management practices as shown and described in the approved erosion and sediment control plan.
 2. All erosion prevention measures must be in place and in working condition prior to disturbing and exposing any soil surfaces, and throughout all phases of construction.

3. The area of disturbance must be clearly delineated and marked in the field, and in the area needed to meet construction requirements.
 4. All related natural resource areas must be clearly delineated and marked in the field.
 5. All infiltration systems, including stormwater and onsite wastewater treatment systems, must be clearly delineated, marked, and protected, as needed.
- D. Availability of Plan. The permit holder will keep at the construction site a copy of the approved plan so that it may be reviewed by the County, DEQ, or other administrating entity, when on site.

9.090.050 – Maintenance.

- A. The responsible person must maintain the erosion prevention facilities and BMPs contained in the approved erosion and sediment control plan to ensure continued effectiveness during any ground disturbing activity.
- B. The responsible person must update the erosion and sediment control plan as site conditions change, or as needed.
- C. If the approved facilities and techniques are not effective or are insufficient, the responsible person must take immediate action to stop sediment from leaving the site and update the erosion and sediment control plan. Additionally, the County may require the following:
 1. On-site modifications to the erosion and sediment control measures or waste management controls.
 2. A revised erosion and sediment control plan.
 - a. The revised plan will be submitted by the responsible person within five (5) working days of the County notifying the responsible person, and/or those conducting ground disturbing activities on behalf of the responsible person, of the need for updates to the existing plan.
 - b. The responsible person must fully implement the revised plan within three (3) working days of approval by the County.
 3. In cases where significant erosion is occurring, as determined by the County, the County may require immediate installation of interim control measures, before submittal of the revised plan.

9.090.055 – Construction Material Management Controls.

In addition to compliance with specific requirements contained in an approved erosion prevention permit, all persons conducting activities regulated by this Code must establish and implement construction material management and pollution reduction controls that will prevent toxic materials and other debris from entering the County's storm drainage and waterways systems, private stormwater systems, and onsite wastewater treatment systems. The following activities are prohibited and are a violation of this Code:

- A. Improper storage of chemicals (e.g., pesticides, fertilizers, fuels, paints, thinners).
- B. Improper disposal of construction-related waste materials (e.g., garbage, rubbish, sanitary waste, plaster, drywall, concrete, grout, and gypsum).
- C. Failure to immediately clean up spills of hazardous or toxic materials.

- D. Washing excess concrete material or other construction-related material into a private or public way, catch basin, or other public facility, the County's stormwater system, private stormwater drainage systems that discharge to the County's stormwater system, private stormwater systems, onsite wastewater treatment systems, related natural resource areas, or other protected area identified on the approved erosion and sediment control plan.
- E. Allowing construction vehicles to track or spill soil or debris into or onto a public or private way.
- F. Ground disturbing activities or destruction of vegetation in protected areas.

9.090.060 – Appeals.

A permit applicant may appeal:

- A. The denial of an erosion prevention permit,
- B. Any conditions imposed on a permit,
- C. The determination that a permit is required, or
- D. A stop work order, within the time and in the manner prescribed by LC 5.025.035.

9.090.065 - Enforcement.

- A. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.
- B. A person who violates any provision of this Erosion Prevention Code is subject to administrative enforcement as outlined in LC Chapter 5, nuisance abatement procedures as outlined in LC Chapter 9, or both. Nuisance abatement or correction through administrative enforcement may include installation of erosion prevention best management practices by the County as necessary to achieve the outcomes set forth in LC 9.090.030.
- C. Whenever any regulated activity is being done contrary to and in violation of this Code or an erosion prevention permit, the enforcement officer may order the activity stopped by notice in writing, posted on the premises, or served on the responsible person, who will immediately stop such work until authorized by the enforcement officer to proceed.

Lane Code

9.090 – EROSION PREVENTION

9.090.005 -- ~~Purpose. Applicable Erosion Control Prevention Regulations.~~

The purpose of this Erosion Prevention Code is to safeguard public health, safety, and welfare by protecting the quality of surface and subsurface waters for drinking water supply, recreation (such as fishing) and other beneficial uses through the application of best management practices (BMPs) for erosion prevention. This Code is intended to meet both the conditions of the County National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Phase II permit and the Willamette River Mercury Total Maximum Daily Load.

Lane County has adopted the following erosion control regulations to be applied by Eugene on urbanizable land within the Eugene Urban Growth Boundary, as set forth in LG 10.600-20.

- A. The Eugene Erosion Prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-04.
- B. Copies of the applicable erosion prevention regulations shall be on file at the Lane County Land Management Division.

(Revised by Ordinance 2-04, 4.9.04)

**9.090.010 -- ~~Definitions. Applicable Erosion Control Prevention Regulations, City of Springfield~~
~~UTZ~~**

“Accumulation” means the deposit of mud, sand, soil, sediment, or construction materials.

“Adjacent Property” means property that adjoins the subject property on which the construction site is located, and is potentially subject to erosion, accumulation, or construction material impacts resulting from the construction activity.

“Area of Disturbance” or “Disturbance Area” means a unit of land or portion of a unit of land with land disturbance. See also “Land Disturbance.”

“Best Management Practices (BMPs)” means schedules of activities; prohibitions of practices; maintenance procedures; and other physical, structural, or managerial practices that are implemented to avoid or mitigate erosion and prevent or reduce the pollution of waters of the state. BMPs include treatment systems, erosion and sediment controls, source controls, and operating procedures and practices to control site runoff, spillage or leaks, and waste disposal.

“Certified Professional” means a person with a background or training in erosion prevention techniques and who holds a license or certification to practice in Oregon in one of the following professions: engineering, architecture, landscape architecture, geology, or is in a similar profession as determined by the County Director; or a person who is certified as a professional in erosion and sedimentation control by the International Erosion Control Association, or any other similar organization, as determined by the County Director.

“Common Erosion and Sediment Control Plan” means an erosion and sediment control plan for a common plan of development.

“Common Plan of Development” means a contiguous construction project or projects where multiple separate and distinct construction activities may be taking place at different times or phases on different schedules but under one plan. Common plans of development include plans to construct multiple improvements on a lot (e.g., a dwelling and a detached garage) and plans to subdivide parcels of land.

Lane Code

Floodplain fill/removal permits and electrical, plumbing, and mechanical permits may also be included in the common plan of development.

“Construction-Related Materials” means potential water quality pollutants that are used or created during construction activities including, but not limited to, off-site deposits of sediments by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood, paints and thinners, packaging materials, insulation, plaster grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, thinners); pavement saw-cutting effluent; and concrete washout.

“Construction Site Management Plan” see Erosion and Sediment Control Plan.

“County Director” or “Director” means the Director of the Lane County Department of Public Works or the Director’s designee.

“Development Site Plan” means the site plan required by the County as part of an application for building, sanitary, planning, or erosion prevention approval. Site plans must show all existing and proposed conditions and improvements so that staff may review the proposed development and its impacts; determine permitting requirements; and apply policies, regulations, and code requirements accordingly.

“Disturbance” see “Land Disturbance.”

“Ephemeral Flow” means water that flows only during, and for a short duration after, precipitation events in a typical year. Sources for ephemeral flow do not include groundwater.

“Erosion” or “Construction Erosion” means the collapse, undermining or subsidence of land that is accelerated when soil is disturbed, left bare, or exposed to wind and water during the construction process or due to land disturbance.

“Erosion and Sediment Control Plan (ESCP)” or “Erosion Prevention Plan” means a set of plans, schedules, sizing calculations, and maintenance practices indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

“Final Stabilization” means the condition in which all soil disturbing activities at the site have been completed and either of the two following criteria are met:

A. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent (70%) of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

B. Equivalent approved permanent stabilization measures have been employed.

“Floodplain” means the Special Flood Hazard Area (SFHA), as identified by the Flood Insurance Rate Maps adopted by the County as part of LC 16.244.

“Hazardous Material” or “Toxic Material” means substances or chemicals that pose a health hazard or a physical hazard, or that harm the environment.

“Highly Erodible Soil” means soil that, when exposed or displaced by construction activity, has the potential to be readily moved and transported by wind and water at an excessive rate.

“Improper Disposal” means the disposal of any construction-related material in a manner that causes, or has the potential to cause, the depletion of the capacity of the County’s stormwater system;

Lane Code

the contamination of soils; or the discharge of pollutants to the County's stormwater system, private stormwater drainage systems, or related natural resource areas.

"Improper Storage" means the handling or storing of any construction-related materials in a manner that, due to leaks, spills, leachates, deposits, or dumps, causes or has the potential to cause the depletion of the capacity of the County's stormwater system; the contamination of soils; or the discharge of pollutants to the County's stormwater system, private stormwater drainage systems, or related natural resource areas.

"Intermittent Flow" means water that flows during certain times of the year and is supported by groundwater flow. During dry periods, intermittent flow streams may not have flowing surface water.

"Land Disturbance" or "Disturbance" means activities that change the physical conditions of landforms, vegetation, and/or hydrology, including, but not limited to, digging, clearing, grading, grubbing, excavating, filling, logging, and the storing of materials. Such disturbance may be on-going (e.g., gravel mining, farming, gardening,) or temporary (e.g., construction, excavation, filling, grading, landscape installation, or other vegetative clearing activities).

"Landscaping Maintenance Activities" means activities necessary to maintain the health and function of existing, developed landscaped areas, including but not limited to, tilling, sodding, mowing, aerating, and pruning.

"Maximum Extent Practicable" means the greatest degree of pollutant reduction achievable through the application of technically feasible and reasonable best management practices, processes, siting criteria, operating methods, or other alternatives approved by the County Director.

"Outcomes" means the results of employing, to the maximum extent practicable, erosion prevention and construction site management practices, during both the construction period and the wet weather season.

"Person" means an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state and any agency thereof, political subdivision of the state, interstate body, or the federal government, including any agency thereof.

"Phased Development" means a development project that:

- A. Proposes more than one improvement requiring a County permit,
- B. Is located on a single piece of property or an assemblage of contiguous properties,
- C. Will begin and be completed at different times, and
- D. Is proposed for development by the same person, or by related persons.

"Private Way" means any street, road, alley, right-of-way, or easement that is intended for passage by vehicles, bicycles, or pedestrians, or is intended to provide for ingress and egress to land that is not controlled by a city, the County, or the State. A "private way" includes:

- A. A driveway,
- B. The portion of a panhandle lot or property that is used for access purposes, and
- C. A road or driveway used for access purposes in which the underlying fee belongs to two or more persons or entities.

Lane Code

“Public Way” means any street, road, alley, right-of-way, pedestrian or bicycle easement, storm drainage easement, wastewater or sanitary sewer easement, or other utility easement for public use which is controlled by a city, the County, or the State.

“Related Natural Resource Areas” means areas such as waterways, wetlands, conservation zones or easements, and riparian areas, which, due to their location, topography, vegetation, or other factors, provide one (1) or more of the following stormwater functions: flood control; habitat; streambank stabilization; and water quality treatment, including pollutant removal, shading, and temperature stabilization.

“Responsible Person” means a permit holder, property owner, or their agent or contractor, or other person who is responsible for meeting the erosion prevention outcomes, and is responsible for any violation of this Erosion Prevention Code.

“Riparian Area” means the land bordering a water feature, acting as a transitional area between terrestrial and aquatic ecosystems, distinguished by wet or moist soils and plants adapted to growing conditions associated with periodically saturated soils.

“Routine Maintenance” means activities and practices that are necessary to maintain the operating capacity, functional integrity, or aesthetics of a place or facility. Routine maintenance includes, but is not limited to, landscaping, the repair of recreation facilities (e.g., ball diamonds, play areas, fields), the cleaning of stormwater facilities, and the patching of roads and driveways.

“Slope” means the extent to which a soil surface has an incline relative to the horizontal grade. Expressed in percentage terms, slope represents the elevation change (rise) divided by the horizontal distance (run) between two (2) different points.

“Stormwater” or “Stormwater Runoff” means water that flows off of impervious surfaces and/or over the ground surface as a result of naturally occurring precipitation, such as a snowstorm or rainstorm, and does not infiltrate into the soil.

“Stormwater System” or “Stormwater Sewer System” or “Storm Drainage System” means a drain and collection system, which may include roads, ditches, channels, pipes, culverts, catch basins, and manholes, that collects naturally occurring precipitation or stormwater runoff. The stormwater system is not a combined sewer system and does not include conveyance of any wastewater.

“Top of Bank” means the point along the edge of a water feature where an abrupt change in slope is evident, and where the water feature is generally able to overflow the banks and inundate upland areas during flows at or exceeding the average annual high water stage.

“Visible or Measurable Erosion” means evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or evidence of on-site erosion such as rills and gullies on bare soil slopes where the flow of water is not filtered or captured on the site using the techniques recommended in the County’s Erosion Prevention Manual, an approved erosion and sediment control plan, or comparable techniques. Visible or measurable erosion also includes earth slides, mud flows, earth sloughing, or other earth movement that leaves the property.

“Watercourse” means a natural or human-made channel, as measured from top-of-bank to top-of-bank, in which a flow of water occurs, either continuously, intermittently, or ephemeraly, with some degree of regularity.

“Water Feature” means natural or human-made bodies of water (either perennial, intermittent, or ephemeral flow), including creeks, streams, ponds, rivers, lakes, related natural resource areas, drainage channels, jurisdictional wetlands, and post-construction stormwater management facilities.

Lane Code

“Wetland” means any parcel or portion of a parcel that meets the state or federal definition of wetland under the jurisdiction of state or federal laws. Synonymous with jurisdictional wetlands.

“Wet Weather Season” means October 15 through April 30, unless otherwise designated by the County Director.

~~Lane County has adopted the following erosion control regulations to be applied by the City of Springfield on urbanizable land within the Springfield Urban Growth Boundary as set forth in LC 10.600-10.~~

- ~~A. The Springfield erosion prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-10.~~
- ~~B. The Lane County Land Management Division will maintain and make available to the public copies of the applicable erosion prevention regulations.~~

~~(Revised by Ordinance 2-10, 7.9.10)~~

9.090.015 - Applicability.

- A. The provisions of this Erosion Prevention Code apply to all new development, redevelopment, land-disturbing activities, and drainage projects that occur on property outside the urban growth boundaries of the City of Springfield and the City of Eugene, and outside the incorporated areas of other cities in Lane County. Erosion prevention requirements for land-disturbing activities located on public rights-of-way will be regulated by LC Chapter 15.
- B. Lane County has adopted by ordinance the City of Eugene’s erosion prevention regulations and the City of Eugene will apply those regulations within the Eugene Urban Growth Boundary, as set forth in LC 10.600-20. Copies of the applicable erosion prevention regulations will be on file at the Lane County Land Management Division.
- C. Lane County has adopted by ordinance the City of Springfield’s erosion prevention regulations and the City of Springfield will apply those regulations within the Springfield Urban Growth Boundary as set forth in LC 10.600-10. Copies of the applicable erosion control regulations will be on file at the Lane County Land Management Division.

9.090.020 - Exemptions.

Notwithstanding LC 9.090.015A, the following activities are exempt from the provisions of this chapter.

- A. Activities that constitute a “farm use” as defined by ORS 215, except the construction of buildings and the development of associated private ways and parking areas, and floodplain fill/removal permits to create construction sites for such improvements.
- B. Forest practices regulated under the Oregon Forest Practices Act, except conversions from timber to other uses, so long as such forest practices are in compliance with Oregon Department of Forestry rules regarding protection of water quality.
- C. Excavations for gas or oil facilities for which the operator demonstrates compliance with Title 40 Code of Federal Regulations 122.26.
- D. Mining activities conducted under permits issued by the Oregon Department of Geology and Mineral Industries.

Lane Code

9.090.025 - Erosion Prohibited.

All new development, redevelopment, land-disturbing activities, and drainage projects must prevent and/or control erosion, sedimentation, and other construction-related impacts to stormwater quality to achieve the outcomes specified in LC 9.090.030. All erosion prevention measures must be in place and in working condition prior to conducting any activities covered by this Erosion Prevention Code.

9.090.030 - Outcomes.

- A. Target Outcomes. All persons conducting activities covered by this Erosion Prevention Code must employ, to the maximum extent practicable, erosion prevention and construction site management practices that will achieve, during both the construction period and the wet weather season, the following outcomes:
1. Public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater treatment systems, and related natural resource areas are kept free of deposits or discharges of soil, sediment, and concentrated runoff flows from the site except those that would occur through natural processes from an undisturbed site.
 2. Vegetation in water features, related natural resource areas, and associated bank and/or riparian areas adjacent to construction sites are preserved or protected from impacts that exceed those that occur through natural processes on an undisturbed site.
 3. Public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater treatment systems, and related natural resource areas are kept free of construction-related pollution and debris, including mud, concrete washout, trash, and other contaminants resulting from construction activities including, but not limited to, vehicle movement; material storage; and the cleaning or washing of equipment, tools, and vehicles.
 4. Soils, stockpile areas, and clearing debris piles must not be exposed to precipitation or stormwater runoff without the provision of secondary containment, perimeter controls, or other approved BMPs.
 5. Earth slides, mudflows, earth sloughing, or other earth movement which may leave the property must not occur in excess of that which occurs through natural processes on an undisturbed site.
 6. No discharge into public and private ways, adjacent properties, water features, public and private stormwater systems, onsite wastewater systems, and related natural resource areas of construction-related stormwater runoff containing contaminants resulting from activities such as, but not limited to, cleaning or washing of equipment, tools, or vehicles, is permitted to occur.
 7. Hazardous substances, such as paints, thinners, fuels, and other chemicals will not be released onto the site, adjacent properties, or onsite wastewater treatment systems, or into water features, public and private stormwater systems, or related natural resource areas.
 8. The use of plastic and petroleum-based materials in BMPs is limited to temporary installations that can be removed easily and completely prior to final stabilization. Plastic and petroleum-based products may not be left in the landscape to deteriorate.
 9. At final stabilization stage, long-term erosion or sediment accumulation are not permitted to occur.

Lane Code

B. Use of Best Management Practices (BMPs).

1. When designing and implementing best management practices (BMPs) to meet the above outcomes, the following phases of work will be considered:
 - a. Site Planning. Developing a work plan for construction that incorporates appropriate erosion prevention.
 - b. Mobilization. Preparing the site such that erosion prevention measures are installed prior to beginning land disturbing activities.
 - c. Construction. Adjusting erosion prevention BMPs such that they address any changing construction site conditions to meet the above outcomes.
 - d. Final Stabilization. Ensuring that all disturbed areas are appropriately stabilized upon completion of land disturbing activities.
2. Best management practices, along with guidance for their design, installation, and use, are included in the Lane County Erosion Prevention Manual.

C. The responsible person must consider the seasonal variation of rainfall, temperature, and other climatic factors relative to the timing of land disturbance activities. All construction activity that will result in soil disturbance during the wet weather season will, at a minimum, prepare for wet weather conditions by:

1. Maintaining additional BMP materials on site in order to respond immediately to changing conditions.
2. Graveling construction site entrances with crushed rock of sufficient size and grading as necessary to prevent off-site tracking.
3. Protecting all related natural resource areas, stormwater facilities, and water features.
4. Covering all exposed stockpile areas not protected by approved perimeter controls.
5. Conducting wet weather monitoring of BMPs and conducting inspections the day following a storm.
6. Providing temporary stabilization anytime an area will not involve active construction activities for more than five (5) consecutive days.

9.090.035 – Issuance of Permit Not Proof of Compliance.

A permit or other approval issued through these rules may not be construed as authorizing any violation of the above outcomes or wet weather requirements.

9.090.040 – Erosion Prevention Permits.

A. Permit Required.

1. Except as otherwise provided by Lane Code, an erosion prevention permit is required for any land disturbing activity that:

Lane Code

- a. Requires a Department of Environmental Quality (DEQ) 1200-C Construction Stormwater General Permit and such permit has been obtained; or
- b. Disturbs one quarter (¼) acre or more of land or involves the movement of two hundred (200) cubic yards of soil or more; or
- c. Is conducted on land with one (1) or more of the following:
 - (1) Is located within the floodplain;
 - (2) Contains highly erodible soils or slopes of fifteen percent (15%) or greater;
 - (3) Involves commercial, industrial, or multi-unit residential development or is located on a property that is zoned for commercial or industrial activities;
 - (4) Is located within fifty (50) feet of a water feature.
2. For purposes of LC 9.090.040A.1.c(4), the fifty (50) feet will be measured from the closest point of the boundary of the jurisdictional wetland to the regulated activity. For watercourses where the County has previously determined the "ordinary highwater mark" per LC 16.253, that mark is the point from which the fifty (50) feet is measured. Otherwise, the point from which the fifty (50) feet is measured will be the top of bank.
3. Notwithstanding LC 9.090.045B.3, a separate erosion prevention permit will be required for each project covered by a common plan of development.
4. Where an erosion prevention permit is required, no person may commence any land disturbing activity without first obtaining the required permit.

B. County Soil and Contour Maps.

1. To determine when an erosion prevention permit is required, the County will prepare a map showing contours and highly erodible soils located within the County. The County will use the map to make a preliminary determination of the slope and soil erodibility of the property to be developed. The map will be available for public review.
2. An applicant may challenge the County's preliminary determination that a site contains highly erodible soils or has a slope of fifteen percent (15%) or greater through submission of field information from a certified professional that demonstrates that the determination is inconsistent with the criteria in LC 9.090.040A.1.

If an applicant chooses not to contest the designation or is unable to satisfy the above criteria, an erosion prevention permit will be required.

C. Exceptions. Notwithstanding any other provisions of this Erosion Prevention Code, the following land disturbing activities do not require an erosion prevention permit:

1. Routine maintenance of driveways, private ways, parking areas, parking lots, and paved or graveled storage areas (including the pavement maintenance practices listed below) that does not:
 - a. Alter the existing function or patterns of runoff, or
 - b. Violate LC 9.021 (Illicit Discharge).

The following pavement maintenance practices are considered routine maintenance: pothole and square cut patching, crack sealing, management of vegetation within a private road or

Lane Code

- easement area, overlaying existing asphalt or concrete pavement without expanding the existing area of coverage, shoulder and drainage system regrading, and resurfacing with in-kind material without expanding the road prism.
2. Home gardening and landscaping maintenance activities, unless such activity takes place within fifty (50) feet of a water feature.
 3. Activities that are regulated by this Erosion Prevention Code may commence without complying with the requirements of this Code if the Director determines there is a hazard posing imminent danger to life or property, such as substantial fire hazards, risk of flood or other emergency. However, upon determination by Director that such emergency has passed, the provisions of this Code apply.
- D. Permit Classifications. The County Director may issue the following types of erosion prevention permits.
1. Tier 1. This permit applies to a property owner or agent conducting activity that satisfies LC 9.090.040A.1.a. An application for a Tier 1 permit requires submittal of a copy of the approved DEQ 1200-C Construction Stormwater General Permit and erosion and sediment control plan.
 2. Tier 2. This permit applies to a property owner or agent conducting activity that satisfies LC 9.090.040A.1.b or LC 9.090.040A.1.c(1) – (3) and where a 1200-C permit has not been obtained through DEQ. An application for a Tier 2 permit requires the submittal of an erosion and sediment control plan.
 3. Tier 3. This permit applies to a property owner or agent conducting activity that is located within fifty (50) feet of a water feature and where a Tier 1 or a Tier 2 permit is not required. This permit requires submittal of the development site plan.
- E. Fee. Fees for erosion prevention Tier 1, Tier 2, and Tier 3 permits will be established by the Director. Application fees must be paid when the application is submitted to the County.
- F. Review Criteria and Approval. If the County finds that the proposed activities will result in visible or measurable erosion, or will otherwise violate the outcomes set forth in LC 9.090.030, the County must deny the permit. The County will approve the application or approve the application with conditions if the County finds that the proposal, with any reasonable conditions, will not result in visible or measurable erosion, and will satisfy the outcomes.
- G. Conditions of Approval. Every erosion prevention permit will include standard conditions and any special conditions determined to be necessary to satisfy the outcomes. The County may require, as a condition of approval, that the responsible person obtain a bond, letter of credit, or other guarantee to ensure compliance with erosion prevention requirements.
- H. Issuance of Permit.
1. Compliance with the requirement to obtain a permit under this Erosion Prevention Code does not in any way imply, either directly or indirectly, compliance with any other requirement of the Lane Code, nor does it relieve any person from the obligation to comply with regulations or permits of any other federal, state, or local authority.
 2. The application and processing of other County development permits, such as, but not limited to, floodplain removal/fill, agricultural, building, and onsite wastewater treatment system permits, are interdependent with the erosion prevention permit process. The County will not issue any of these other permits:

Lane Code

- a. Until the County has approved for installation, conducted a site inspection if necessary, and issued a required erosion prevention permit, unless the County has determined an erosion prevention permit is not required; or
 - b. If the property owner or permit applicant is in violation of an erosion prevention permit, or any conditions contained therein.
 3. No erosion prevention permit requiring an erosion prevention and sediment control plan will be issued without prior submittal and review of the plan requirements set forth in this Erosion Prevention Code.
 4. As a condition of erosion prevention permit issuance, the responsible party agrees to allow all inspections to be conducted.
 5. Where a bond, letter of credit, or other guarantee is required, the erosion prevention permit will not be issued until the bond or guarantee has been obtained and approved.
- I. Permit Duration.
 1. Permit Period of Validity. An erosion prevention permit will be valid for one (1) year from the date of issuance. The permit may be renewed for additional periods of one (1) year during the course of construction. Once construction has been completed, the permit may be renewed for additional one (1) year periods up to, but not to exceed, two (2) years after completion of the construction activities, if the County determines the extension is necessary to ensure that construction activity has stabilized in accordance with the outcomes listed in these rules.
 2. Renewal/Extension.
 - a. The responsible person must submit a permit renewal application form and fee at least thirty (30) days prior to expiration of the current permit.
 - b. The Director will review the request and the current status of erosion prevention at the site and may approve the request if conditions are substantially consistent with the original erosion and sediment control plan.
 3. Expiration. Expiration of an erosion prevention permit that has not received final inspection approval (including confirmation of final stabilization) is a violation of this Code.
- J. Transfer of Ownership. Upon receiving an application filed upon the appropriate County form, the County may approve the transfer of an Erosion Prevention Permit where:
 1. The new permittee is the owner of the property where the permitted erosion prevention measures are occurring or will occur;
 2. The permit has not expired;
 3. Conditions have not changed since the permit was issued; and
 4. The new permittee certifies in writing, on a form designated by the County, that they will comply with the permit as approved.

9.090.045 – Erosion and Sediment Control Plan.

- A. Plan Required. An application for a Tier 1 or Tier 2 erosion prevention permit must submit with the application an erosion and sediment control plan that meets the requirements of LC 9.090.045B.

Lane Code

B. Requirements of Plan.

1. The erosion and sediment control plan must:
 - a. Describe the techniques and methods, including best management practices for wet weather conditions, used to achieve the required outcomes, prevent erosion, and control the discharge of pollutants at the various stages of development;
 - b. Show and describe conditions before, during, and after development. All proposed phasing and stages of construction, including grading and utilities, must also be shown. Multiple plan sheets may be required to accurately and clearly show all BMPs and all stages or phases of development;
 - c. Include sizing criteria and design specification drawings for each BMP chosen;
 - d. Include performance criteria for each chosen BMP and operation and maintenance requirements, including appropriate inspection intervals and self-inspection checklists; and
 - e. Demonstrate the methods to be used to achieve final stabilization of the site following the completion of land disturbing activities.
2. For Tier 1 permits, the erosion and sediment control plan must be prepared by a certified professional who must certify that, in their professional opinion, implementation of the plan will ensure compliance with the outcomes set forth in LC 9.090.030.
3. An erosion and sediment control plan for a common plan of development may be submitted for multiple development permits on one or more lots or parcels that are under the same ownership and are being developed at the same time.
4. More detailed information about erosion and sediment control plans may be found in the Lane County Erosion Prevention Manual. This Manual will be maintained by the County.

C. Implementation of Plan.

1. The responsible person or their agent must install, perform, and maintain the best management practices as shown and described in the approved erosion and sediment control plan.
 2. All erosion prevention measures must be in place and in working condition prior to disturbing and exposing any soil surfaces, and throughout all phases of construction.
 3. The area of disturbance must be clearly delineated and marked in the field, and in the area needed to meet construction requirements.
 4. All related natural resource areas must be clearly delineated and marked in the field.
 5. All infiltration systems, including stormwater and onsite wastewater treatment systems, must be clearly delineated, marked, and protected, as needed.
- D. Availability of Plan. The permit holder will keep at the construction site a copy of the approved plan so that it may be reviewed by the County, DEQ, or other administering entity, when on site.

9.090.050 – Maintenance.

- A. The responsible person must maintain the erosion prevention facilities and BMPs contained in the approved erosion and sediment control plan to ensure continued effectiveness during any ground disturbing activity.

Lane Code

- B. The responsible person must update the erosion and sediment control plan as site conditions change, or as needed.
- C. If the approved facilities and techniques are not effective or are insufficient, the responsible person must take immediate action to stop sediment from leaving the site and update the erosion and sediment control plan. Additionally, the County may require the following:
 - 1. On-site modifications to the erosion and sediment control measures or waste management controls.
 - 2. A revised erosion and sediment control plan.
 - a. The revised plan will be submitted by the responsible person within five (5) working days of the County notifying the responsible person, and/or those conducting ground disturbing activities on behalf of the responsible person, of the need for updates to the existing plan.
 - b. The responsible person must fully implement the revised plan within three (3) working days of approval by the County.
 - 3. In cases where significant erosion is occurring, as determined by the County, the County may require immediate installation of interim control measures, before submittal of the revised plan.

9.090.055 – Construction Material Management Controls.

In addition to compliance with specific requirements contained in an approved erosion prevention permit, all persons conducting activities regulated by this Code must establish and implement construction material management and pollution reduction controls that will prevent toxic materials and other debris from entering the County's storm drainage and waterways systems, private stormwater systems, and onsite wastewater treatment systems. The following activities are prohibited and are a violation of this Code:

- A. Improper storage of chemicals (e.g., pesticides, fertilizers, fuels, paints, thinners).
- B. Improper disposal of construction-related waste materials (e.g., garbage, rubbish, sanitary waste, plaster, drywall, concrete, grout, and gypsum).
- C. Failure to immediately clean up spills of hazardous or toxic materials.
- D. Washing excess concrete material or other construction-related material into a private or public way, catch basin, or other public facility, the County's stormwater system, private stormwater drainage systems that discharge to the County's stormwater system, private stormwater systems, onsite wastewater treatment systems, related natural resource areas, or other protected area identified on the approved erosion and sediment control plan.
- E. Allowing construction vehicles to track or spill soil or debris into or onto a public or private way.
- F. Ground disturbing activities or destruction of vegetation in protected areas.

9.090.060 – Appeals.

A permit applicant may appeal:

- A. The denial of an erosion prevention permit.

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FORMAT**

Lane Code

- B. Any conditions imposed on a permit.
- C. The determination that a permit is required, or
- D. A stop work order, within the time and in the manner prescribed by LC 5.025.035.

9.090.065 - Enforcement.

- A. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.
- B. A person who violates any provision of this Erosion Prevention Code is subject to administrative enforcement as outlined in LC Chapter 5, nuisance abatement procedures as outlined in LC Chapter 9, or both. Nuisance abatement or correction through administrative enforcement may include installation of erosion prevention best management practices by the County as necessary to achieve the outcomes set forth in LC 9.090.030.
- C. Whenever any regulated activity is being done contrary to and in violation of this Code or an erosion prevention permit, the enforcement officer may order the activity stopped by notice in writing, posted on the premises, or served on the responsible person, who will immediately stop such work until authorized by the enforcement officer to proceed.

ATTACHMENT #1, Exhibit B

10.091 Compliance with Erosion Prevention Code

Development subject to the provisions of this chapter must comply with Erosion Prevention code requirements, LC 9.090.

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10.090

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Lane Code

10.090

10.091 Compliance with Erosion Prevention Code

Development subject to the provisions of this chapter must comply with Erosion Prevention code requirements, LC 9.090.

11.016 Erosion Prevention.

Notwithstanding any other provision of this code, the Building Official may deny or refuse to issue a permit under this section if the applicant has not obtained an erosion prevention permit under LC 9.090.040, where required.

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**LEGISLATIVE
FORMAT**

11.016

Lane Code

11.016

11.016 Erosion Prevention.

Notwithstanding any other provision of this code, the Building Official may deny or refuse to issue a permit under this section if the applicant has not obtained an erosion prevention permit under LC 9.090.040, where required.

16.096 Compliance with Erosion Prevention Code.

Development subject to the provisions of this chapter must comply with Erosion Prevention code requirements, LC 9.090.

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**LEGISLATIVE
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16.096

Lane Code

16.096

16.096 Compliance with Erosion Prevention Code.

Development subject to the provisions of this chapter must comply with Erosion Prevention code requirements, LC 9.090.

ATTACHMENT #2

Order No. 23-08: Amendments to Lane Manual

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 23-08-____ - ____

IN THE MATTER OF AMENDING LANE
MANUAL CHAPTER 9 TO ADD A
PROVISION FOR EROSION PREVENTION,
EFFECTIVE JANUARY 1, 2024
(LM 9.030)

WHEREAS, certain changes to Lane Manual Chapter 9 are required to add a provision for erosion prevention;

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

Lane Manual Chapter 9 is amended effective January 1, 2024, by removing, substituting and adding the following sections:

REMOVE THESE SECTIONS

NONE

INSERT THESE SECTIONS

9.030 – 9.030.115

If any section, subsection, sentence, clause, phrase, or portion of this Order or the referenced Lane Manual provisions are for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion is deemed a separate, distinct, and independent provision, and such holding does not affect the validity of the remaining portions.

Said sections are attached hereto and incorporated herein by reference. The purpose of this addition is to add a provision for erosion prevention effective January 1, 2024.

ADOPTED this ____ day of August 2023.

Pat Farr, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date _____

LANE COUNTY OFFICE OF LEGAL COUNSEL

9.030 – EROSION PREVENTION

9.030.100 – Definitions

For the purposes of this subchapter, the following words and phrases shall mean:

“Director” means the Director of the Lane County Department of Public Works or their designee.

"Erosion Prevention Manual" means the Erosion Prevention Manual as approved and amended periodically by the Director.

“Lane County Erosion Prevention Regulations” means the construction site erosion prevention requirements as regulated through LC 9.090.

9.030.105 - Erosion Prevention Manual

It is the policy of the Board to grant to the Director authority to write, approve, and maintain an Erosion Prevention Manual for the purpose of implementing erosion and sediment control measures for private development construction sites.

- A. The Director shall update the Erosion Prevention Manual on a regular basis and as needed.
- B. The Manual shall be available to the public.

9.030.110 - County Soil and Contour Maps

The Director shall prepare and maintain a map showing the contours and soil erodibility within the county.

- A. Erodible soil mapping shall be based upon the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) erosion hazard rating data.
- B. Contour data shall be based upon the best available data, including LIDAR and non-LIDAR sources where LIDAR may not be available.
- C. The Director shall update the county soil and contour maps as needed and as new, more accurate, data sets are made available by the NRCS or other agencies.
- D. The county soil and contour maps shall be available to the public.

9.030.115 - Intergovernmental Agreements

In order to facilitate the implementation of erosion prevention regulations and maintain regional consistency in permit requirements, the Director may enter into intergovernmental agreements with cities within the county to apply Lane County Erosion Prevention Regulations within city limits.

- A. The Agreement shall ensure that the City adopts land use regulations within the city limits that are identical to Lane County Erosion Prevention Regulations.
- B. The Agreement will be established with an effective date and duration, and will require periodic review and renewal.

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- D. The county soil and contour maps shall be available to the public.

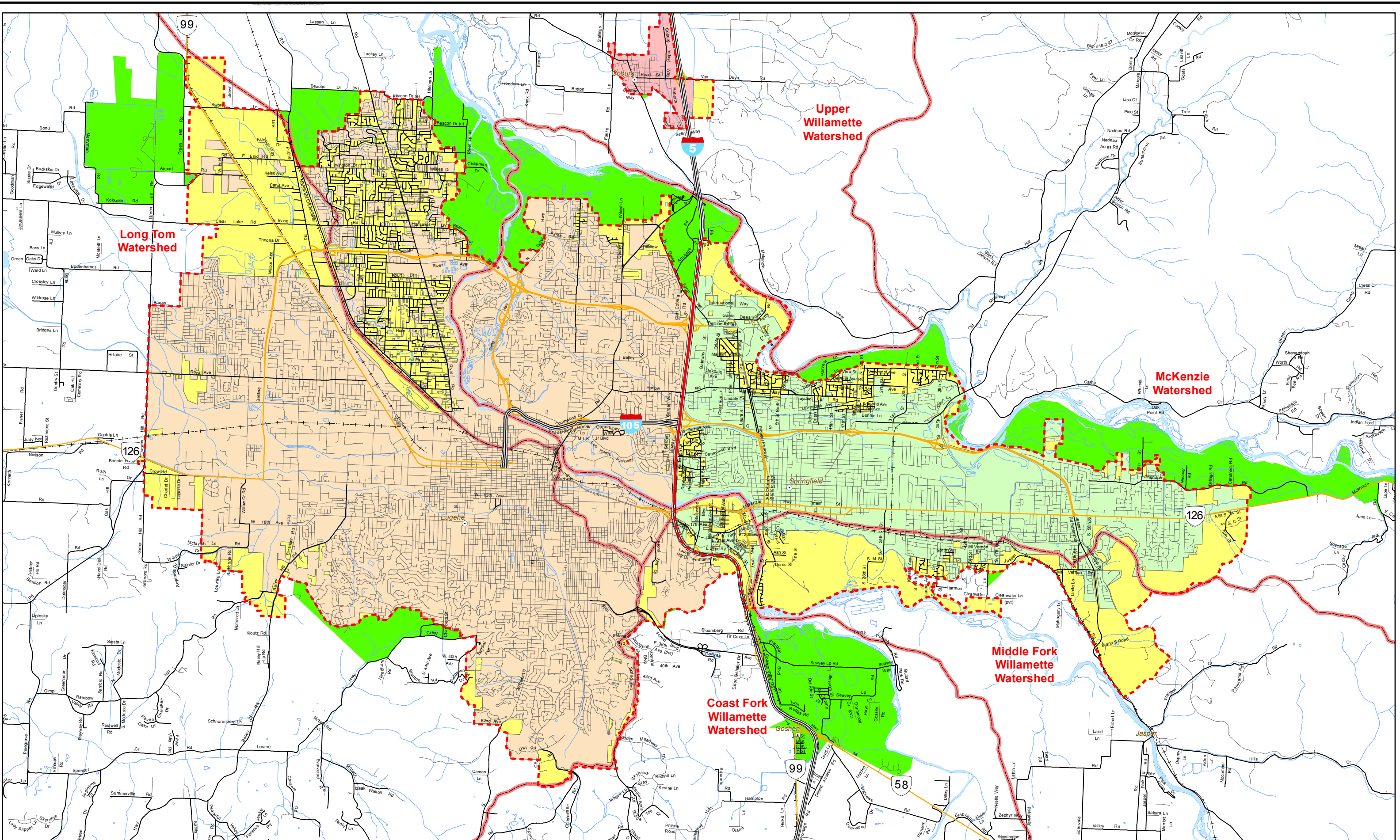
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ATTACHMENT #3

Lane County NPDES MS4 Phase II Area Map



The information on this map was derived from digital databases on the Lane County regional geographic information system. Lane County cannot accept any responsibility for errors, omissions or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

- | | | | |
|--------------------------------|--------------------|--------------------|------------|
| County NPDES MS4 Area | Watershed Boundary | Interstate Freeway | Other Road |
| City UGB/County NPDES MS4 Area | Water Feature | State Highway | Railroad |
| UGB | River/Stream | County Road | |





Lane County NPDES MS4 Phase II Area*

*NPDES MS4 stands for National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System. This area is set by the Oregon Department of Environmental Quality based on the US Census.