



AGENDA COVER MEMO

Memorandum Date: September 1, 2023
First Reading Date: August 8, 2023
Second Reading / Public Hearing Date: August 22, 2023
Third Reading / Public Hearing Date: September 19, 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
Dan Hurley, Lane County Public Works Director
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)
And
ORDER 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)

I. MOTION

September 19, 2023 (3rd Reading):

- 1) Move (a) to approve the Third Reading of Ordinance No. 23-06 and adopt Ordinance 23-06 as presented, and (b) to approve Order 23-08-_____ - _____ as presented; OR
- 2) Move to approve the Third Reading, set a Fourth Reading, close the Public Hearing, and continue deliberations to a date certain; OR
- 3) Move to approve the Third Reading, set a Fourth Reading and continue the Public Hearing to (Date Certain) at 1:30 PM and direct staff to revise Ordinance No. 23-06 and/or Order 23-08-_____ - _____ 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 the required conditions of two federal water quality permits held by the County: the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II permit and the Willamette River Mercury Total Maximum Daily Load (TMDL) Water Quality Management Plan. Both permits are federally required and are administered by the Oregon Department of Environmental Quality (DEQ). 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 TMD.

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, which is 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.

New permit requirements now extend to properties outside of roadways and on to private development. Erosion prevention code is one of these items and it is not eligible to be funded by the Road Fund. 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 fee revenues are estimated to be approximately \$30,000 to \$40,000 per month. 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 for 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.

On August 17, 2023, the Lane County Finance & Audit Committee approved the following fee schedule for erosion permit fees contingent on BCC approval of Lane Code & Lane Manual updates to implement erosion permit fees.

<u>Erosion Control Permit Type</u>	<u>Fee</u>
Tier 1	\$550.00
Tier 2A	\$700.00
Tier 2B	\$450.00
Tier 3	\$100.00
<u>Additional Erosion Prevention Fees:</u>	
Additional Information (AI) Review	\$81.00/hr with 1 hour min
Additional Inspections	\$90.00
Additional Disturbance Area	\$150.00 for each additional area of disturbance

E. Health Implications

The proposed erosion prevention code 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 code will help to protect the water quality of drinking water sources within the county, such as the McKenzie River, which is Eugene’s sole source of drinking water, and Siltcoos and Woahink Lakes, which are used by Dunes City. 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 federally required permits through the DEQ that are the drivers for the proposed erosion prevention standards: the National Pollutant Discharge Elimination System (NPDES) Municipal Separated Storm Sewer System (MS4) Phase II permit and the updated Willamette River Mercury Total Maximum Daily Load (TMDL). Following is a description of each permit and a discussion of how these permits shaped the county's proposed erosion prevention code and program.

NPDES MS4 Phase II Permit

The NPDES MS4 Phase II Permit (see the link in the Attachments section) allows the County to discharge our storm system to waters of the state (rivers, streams, creeks). This permit requires the implementation by the County of six minimum control measures to reduce contaminant loads from our road system from being discharged through our stormwater system to rivers and streams via stormwater runoff. One of these minimum control measures is that the County is required to adopt code for and implement a Construction Site Runoff Control (aka., erosion prevention) program.

The MS4 Phase II Permit erosion prevention requirements must be maintained, at a minimum, within the U.S. Census-defined Urbanized Area (hereafter referred to as the "MS4 area") that incorporates the urban growth boundaries (UGBs) of Eugene and Springfield and areas outside of and near to those UGBs (see the Lane County NPDES MS4 Phase II Area map, Attachment 3). For those areas within the UGBs of Eugene and Springfield, the County relies upon inter-governmental agreements (IGAs) with the Cities to have them administer the erosion prevention program within the UGB areas.

Per the 2021 Modified MS4 Phase II General Permit Construction Site Runoff Control measure, the County must:

- Adopt regulations that "require erosion controls, sediment controls, and

waste materials management controls to be used and maintained at all qualifying construction projects from initial clearing through final stabilization to reduce pollutants in stormwater discharges to the MS4 from construction sites.”

- “Require construction site operators to complete and implement an Erosion and Sediment Control Plan (ESCP) for construction project sites that result in a minimum land disturbance of 10,890 square feet (a quarter of an acre) or more.”
- “Develop, implement, and maintain a written, escalating enforcement and response procedure.”
- Ensure staff are “properly trained and knowledgeable.”
- Track implementation of the erosion prevention program’s required activities for annual reporting.
- Review ESCPs that are one or more acres or are part of a larger development.
- Conduct inspections and follow minimum inspection documentation requirements.
- “Use appropriate enforcement procedures and actions to ensure compliance with” the following measures:
 - Refer project sites that are over 1 acre or larger or are part of a 1-acre or larger project to DEQ to obtain additional DEQ NPDES 1200-C permits.
 - Provide ESCP templates to construction site operators.
 - Require construction site operators to complete a site-specific ESCP prior to disturbance.
 - Require the ESCP be maintained and updated as needed, as site conditions change.
 - Require the ESCP be kept on site.

Willamette River Mercury TMDL

The Willamette River is listed by the federal Clean Water Act as an impaired water of the state for a variety of pollutants. The Environmental Protection Agency, under the authority of the Clean Water Act, requires that the Oregon DEQ develop and implement Total Maximum Daily Load (TMDL) requirements for the river and that designated management agencies such as Lane County develop and maintain implementation plans that meet the requirements of the TMDL. As a result of litigation, a new mercury TMDL was issued by DEQ in 2021. It is of note

that the Willamette River watershed encompasses approximately 76% of Lane County and is the largest watershed in the state. Links to both the 2021 Modified EPA and the 2019 DEQ Willamette Basin TMDL documents are included in the Attachments section at the end of this document.

The Willamette River TMDL includes data showing that surface runoff and erosion due to land management practices are the primary sources of mercury to the Willamette River, contributing over 75% of the total mercury load. Therefore, one of the requirements of the TMDL is that counties adopt and implement an erosion prevention program. The County must:

- Write and maintain a TMDL implementation plan that contains mercury reduction strategies and demonstrates “how nonpoint source load allocations for mercury will be met by including management strategies to reduce runoff and erosion that discharge directly to waterbodies.”
- “Incorporate erosion control requirements into county building and grading permit applications.”
- “Track implementation of its construction site runoff control program and describe all activities” in each TMDL annual report.
- Adopt permit language that:
 - Is enforceable.
 - Requires “erosion, sediment, and waste material management controls be used and maintained at construction sites from initial clearing through final stabilization.”

The TMDL program does not contain a minimum disturbance area trigger like the MS4 Phase II permit does. Rather, the TMDL allows counties to prioritize where the erosion prevention requirements are applied.

It is also of note that the DEQ is also writing a new TMDL for the Mid-Coast Watersheds which includes the Siuslaw River. Upon implementation of this TMDL (at some point in the near future), nearly the entire county land area will be covered by a TMDL permit. The Mid-Coast TMDL is addressing impairments due to temperature, bacteria, sedimentation, dissolved oxygen, and weeds and algae. Control measures similar to those of the Willamette River TMDL Permit are anticipated based on past experience with DEQ permits.

To address the TMDL language quoted above about how the County must adopt “management strategies to reduce runoff and erosion that discharge directly to waterbodies,” it must be noted that the term “directly” does not mean that the site

must discharge *immediately* to a river or stream. Runoff that travels overland to waterbodies and runoff that discharges to a roadside ditch which then discharges to a waterbody are determined to be discharges to waterbodies.

For clarity, the term “waterbodies” in the TMDL Permit refers to the Willamette River and its tributaries.

How the New Erosion Prevention Code Language Written

The County environmental staff, permitting staff, and legal counsel worked together with support from LCOG to develop this code over the last two years. This code development team worked closely with the County Stormwater Policy Team during the code-writing process. The Stormwater Policy Team is a group composed of all the Public Works Division Managers, the Public Works Director, and division support staff. The code development team worked through the details of the code and then presented it to the Stormwater Policy Team for all key decisions.

The focus of the code development was to create code that met regulations, provided consistency with other Lane County local agencies, and was scaled to the potential for pollutant loads such as sediment and construction-related materials to enter waterbodies. This was balanced by also taking into account staff resources and reduced processing times for the public.

The following professional organizations and agencies were informally consulted for various items throughout the code-writing process:

- Clean Water Services
- Oregon Association of Clean Water Agencies
- Oregon DEQ
- Oregon Department of Transportation
- United States Department of Agriculture – Natural Resources Conservation Service

Staff also consulted with other regional governments to better understand their codes and programs and compare them to the code we were developing. It is common practice for governmental permitting staff to refer to other jurisdictions’ codes as they compose their own. They are not copied word-for-word, but only used as steppingstones. Researching other jurisdictions who have already written their codes and have already passed DEQ reviews is helpful to smaller jurisdictions

just embarking upon the code-writing process. Even the EPA includes a template erosion control code on their website. Ultimately, it was Lane County-specific needs and challenges that decided the final version of the proposed code. The other jurisdictions that were used as examples of DEQ-approved code language and code format are:

- City of Eugene
- City of Springfield
- Marion County
- Benton County
- Clark County, Washington

Marion County and the Cities of Eugene and Springfield were also informally consulted by staff via phone and email, to better understand their code structures and programs. Many Lane County customers also work within these jurisdictions, so understanding how other programs function better allows staff to create a Lane County-specific program that is still familiar and navigable for contractors and developers who work within the larger area.

During the code-writing process, staff and the Stormwater Policy Team weighed the requirements of each federal Permit. Staff evaluated having separate codes for each Permit coverage area, but, when considering the requirements of each, a combined permitting structure functioned best at meeting the requirements of each Permit, and in serving the community by having a consistent code structure across the county.

The MS4 Phase II Permit requires permitting triggers based upon area. Staff extended the triggers to include sensitive areas due to the following Lane County conditions:

- The prevalence of highly erodible soil types throughout the county, per NRCS soil data records.
- Over 200 square miles of Lane County is located within the Federal Emergency Management Agency's mapped floodplain. Disturbed and unstabilized soils are easily carried away by flood waters.
- The county has two major mountain ranges. Many lots contain significant slopes. Slopes can be less stable and they allow runoff to flow down them at a higher rate than flat sites, increasing the likelihood of erosion.

The extension to sensitive areas allows the County to better address development on properties that are more prone to erosion. These properties have a higher potential to contribute to the total sediment and mercury loads that the TMDL requires us to reduce. In fact, soil erosion remains the county's primary illicit discharge, especially on the coast. Coastal sandy soils are very easily displaced when vegetation and roots (that are holding the sand in place) are removed during a construction or landscaping project.

A trigger was also created for commercial and industrial projects, as these types of development tend to have more intricate designs, a higher quantity of pollutant-generating materials to be managed on site, and a higher likelihood, based upon their usual location, of more immediate discharge to public piped or guttered storm systems.

The MS4 Phase II Permit offers specific language in its minimum requirements for square footage triggers. The TMDL is less specific, but is still very clear in its focus on mercury and sediment reduction and construction materials management and in its requirement to adopt an implementation plan that reduces runoff to waterbodies. Per the TMDL, it is the County's responsibility to implement a comprehensive approach addressing sediment and mercury pollution. While the County may need to determine the parameters of the comprehensive approach, the outcomes of reduction are clear: the 2019 DEQ TMDL assigned a target 88% load reduction to mercury in sediment erosion. The 2021 EPA document goes beyond this expectation, noting that even greater reductions are needed in the Upper Willamette and Coast Fork basins to meet water quality needs. The County was tasked with determining the best code requirements to meet the goals of the TMDL Permit, and chose to extend the more precise trigger requirements of the MS4 area so as to assure compliance with the TMDL as well as provide consistent code to reduce public confusion.

An additional item that weighted the County's decision to create a combined permitting approach with both federal Permits and to apply that approach county-wide is the county's dense pattern of rivers and streams. The county's large amount of stream and river miles increases the likelihood of impacts by construction practices to water features that are, just by the nature of the county's geography, nearby. Had staff written TMDL-prompted erosion code only for properties that are within a certain distance to water features, leaving out properties that are further away, the result would have been a permitting applicability map that is as intricate as the county's stream and river system. Such a permitting map would be

a confusing and ostensibly unfair pattern of properties to which the code applied for some, but not for others. Such patchwork layers of applicability can be frustrating to property owners, as it is very difficult to tell who is subject and who isn't, thus bringing the fairness of the code to question.

Additionally, to meet TMDL requirements, trigger distances to water features could not have been a single measurement of distance, but would have had to be varied, to account for disparate uses and larger disturbances that may have a greater chance of impacting water features from further away. Therefore, it was decided to extend the quarter-acre and sensitive area triggers to the whole county. By applying the new erosion prevention code county-wide, staff sought to create a consistent framework for all constituents and developers. Therefore, the quarter-acre and sensitive area triggers required in the MS4 area were extended into the TMDL area.

Applying the MS4 area erosion prevention standards within the TMDL area also makes construction site runoff control easier for TMDL-area developers. Rather than having to study their site and provide calculations as to how they are meeting the mercury load reduction requirements, which may add considerable cost to the project, developers may design an erosion control plan that uses accepted and industry-standard erosion control materials and procedures. Erosion measures, when designed per accepted erosion prevention standards and per the Erosion Prevention Manual, will be vetted as meeting the TMDL standards.

Only the largest projects that are over an acre are required by DEQ to have an erosion control plan completed by a certified professional. Smaller projects are not required to hire a professional and may draw them up themselves, using templates, instructional handouts, and the Erosion Prevention Manual provided by the County.

The erosion prevention program and permitting structure are strategically developed to optimize County resources and to minimize applicant requirements. A consistent code was a key factor in staff's extension of erosion codes to the entire county. Consistency allows for an easier permitting process for both staff and the customer. Contractors and developers know what to expect and can trust there is a consistent application of permit requirements. Staff can maneuver through reviews and inspections more quickly and even use photo and video inspections more easily. The reduced staff time allows for permit costs to remain lower, whereas more staff time, especially field time, would lead to many more permit review and

inspection hours, especially considering the size of the county and the amount of time it takes to get from one project/inspection site to another.

A public hearing was held on August 22nd and the numbered items below cover responses to public comments and to questions raised by the BCC.

1. Readability

Lane County is a large, geographically diverse county. Staff has created an erosion program that addresses that diversity and its environmental challenges, while also enforcing a balanced permitting system that takes into consideration development size and location and its potential for impacts to the environment. Because of all these factors, the resulting erosion prevention code and permitting system will be complex, but complexity does not necessarily equate to vagueness, or to inaccessibility. Staff are preparing multiple handouts and resources for customers and are available to help walk people through their permitting questions. Three informational handouts are attached in the Attachments section of this document. A link to the Erosion Prevention Manual appears in the Attachments section as well. The Manual provides guidance to customers on how to assess their property and their project for erosion concerns, how to choose erosion prevention measures (BMPs), and how to install and maintain them. Staff are also creating a sample erosion prevention plan to help customers visualize what measures may be needed on their site, and an informational packet that will be given to all Tier 3 customers along with their approved permits.

2. Emergency Construction

The proposed code contains language regarding emergency situations. See LC 9.090.040C.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.

This emergency code language was adapted from the Portland erosion prevention code and is similar to emergency language in both the Eugene and Springfield codes. The language addresses both larger-scale emergencies such as forest fires as well as site-specific emergencies such as failing onsite

wastewater (aka., septic) systems. The language allows for an emergency soil disturbance to occur prior to obtaining a permit, so as not to slow down the emergency response. Other codes, such as the State building and onsite wastewater codes, also have similar emergency language.

The expectation of the code language is that a contractor who is called out on an emergency will inform Erosion staff of the proposed work as soon as they are hired to perform the work, or as soon as they realize, once they are on site, that the soil disturbance will necessitate an erosion permit. This is also what typically occurs for building and sanitation emergencies. Often, it is a contractor office staff member who will contact County staff about the emergency at the same time as the contractor is headed to the site. The contractor or their staff will then apply for the necessary permit as soon as possible following the abatement of the problem.

A theoretical example of an emergency septic situation was brought up at the Public Hearing on August 22, 2023. In such a case, the contractor would inform County Erosion staff of the emergency and the need for a permit as soon as they are aware of the need. Staff, who are the Director's designee, would inform the contractor to proceed, but to apply for a permit as soon as possible. Staff would add notes to a record in Accela, to track the emergency situation and would then review the erosion permit, once applied for, for outcomes and final stabilization. Many septic repairs will not trigger the need for an erosion permit due to their small size. Those small projects that are in sensitive areas or within 50 feet of a water feature will trigger the need for a permit.

3. Erosion Prevention Project Costs

Erosion control best management practices (BMPs) range from installing structural controls to managerial items like scheduling work in a certain sequence or maintaining vegetated buffers. Common structural controls used for residential construction are things like sediment fences and straw wattles. A maximum cost estimate of up to 5% of the total construction costs was noted at the Public Hearing on August 22, 2023, but most erosion prevention costs will be considerably less. The average cost per lineal foot of these items is on the order of \$4.00. Based on analysis of County capital improvement program (CIP) projects ranging in size from \$500K to \$2M, the cost of the erosion control elements is less than 2.5%. For small residential additions, such for a bathroom (average 60 sq ft), a permit would only be required if the building addition was within 50 feet

of a water feature. The average cost of a bathroom addition per Forbes Magazine, on the low end, is \$64K. The cost for protecting the water feature from the work area and obtaining the Tier 3 permit would be on the order of 0.8% of the construction cost.

Since many jurisdictions in and around the county already have erosion prevention requirements, erosion BMPs are readily available in the county. There are a number of companies in the Eugene/Springfield area and on the coast. There is also a large company up in Portland that many of the larger contracting companies use.

4. Natural Habitat Restoration Projects, Including Work Within 50 Feet of a Water Feature

Staff has designed a tiered erosion permit system that will allow an expedited and simplified permitting process for non-profit habitat restoration agencies. Agencies will be able to receive a Tier 3 umbrella permit at the beginning of the year (or when they apply for their first permit within the year). The umbrella permit will cover their smaller Tier 3 projects throughout the year. Agencies will only need to inform staff of minimal information (e.g., taxlot numbers, expected project dates, project area) so that the new project may be added to the tracked information in the umbrella permit.

5. Landscape Maintenance and Permit Triggers

The following types of projects, as long as they do not contain a significant amount of soil disturbance, such as regrading, are considered **landscape maintenance**:

- Firewise limbing and grubbing
- Weeding
- Mastication
- Home gardening
- Goat targeted grazing
- Prescriptive burns
- Trail maintenance
- Natural habitat restoration

Landscape maintenance activities that are not within 50' of a water feature are excepted from requiring a permit. They still must meet outcomes.

Landscape maintenance activities that disturb the soil within 50' of a water feature will be required to obtain a Tier 3 permit. Because of the County's dense pattern of river miles, the likelihood of pollution to our waters is high when soil is disturbed and not properly protected from erosion. The minor Tier 3 permit was created to help protect water features that are very near to soil disturbances, since even small disturbances can cause pollution and sedimentation.

The Tier 3 permit's 50-foot setback trigger to a water feature is adopted from the Oregon DEQ 1200-C permit application and its Appendix B which require a minimum 50-foot natural buffer zone (or a professionally designed equivalent) between soil-disturbing activities and water features. The natural buffer zone acts as a barrier and a filter, reducing the sediment load of any construction runoffs that may flow through so that any water reaching the water feature is less hazardous to the natural system. The County's proposed code does not restrict development by drawing a hard, no-build buffer line, but rather requires the smaller Tier 3 permit for any small development within that 50-foot setback area. The Tier 3 ensures that potentially impactful disturbances meet outcomes.

Currently, public projects that will discharge to the drainage system within the right-of-way and are within ¼ mile of a stormwater treatment facility are required to provide a facility protection plan to Engineering and Construction Services showing how their proposed project will not impact the facility.

6. Minimum Permit Triggers (How Small of a Project Will Require a Permit?)

For projects that are not within 50 feet of a water feature or in a sensitive area (15%+ slopes, highly erodible soils, or the floodplain), the minimum area of soil disturbance requiring a permit is a quarter-acre (10,890 square feet). By comparison, the average residential home interior is on the order of 2,000 square feet. Thus, many smaller homes and projects in these areas, such as additions, accessory structures, and many septic projects, will not require an erosion prevention permit.

It is only when these projects are within a sensitive area or within 50 feet of a water feature that the need for a permit arises, due to the potential of the project to increase pollutant loads to water features and natural resources.

Tier 3 permits will receive quick reviews and approvals, within a couple to a few days of submittal. A complete erosion and sediment control plan is not required;

only a simple site plan need be submitted. Homeowners and contractors may draw their own site plans and need not hire a design professional. Site plans are also a standard submittal requirement of all development permits. Upon approval, the applicant will be given an erosion prevention handout with information about required outcomes and basic BMPs and how to use them.

7. Definition of “Water Course” vs. “Water Feature”

At the August 22, 2023, Board meeting, there was discussion about the term “water course” and how it relates to permitting requirements. The term “water course” is used in the proposed code section LC 9.090.040A.2 to describe how the 50-foot setback is measured from a water feature that is channelized (i.e., a water course). The code section also notes how to measure the setback from other water features, including wetlands. A definition is included for each term in the Definitions section.

The 50-foot setback trigger for a Tier 3 permit is measured from a water feature, not from a water course. A water feature is defined as a natural or human-made body 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. The definition does not include downspouts or the water exiting the downspout unless it is part of an approved post-construction stormwater management plan.

The term “water feature” also includes post-construction stormwater management facilities, such as rain gardens and swales. There are not many of these on private properties in the county right now. Within the right-of-way, County CIP projects are generally required to install post-construction water treatment facilities when projects are federally funded or require federal and state permitting due to direct impacts to streams and wetlands. Post-construction stormwater code is the next stormwater measure that the County is required to adopt by our NPDES MS4 Phase II permit. Staff are beginning that code-writing process now and are hoping to bring this code to the Board for adoption in 2024.

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) Approve the Third Reading of Ordinance No. 23-06 and adopt both the Ordinance 23-06 as presented and the Order 23-08-_____-_____ as presented; OR
- 2) Approve the Third Reading, set a Fourth Reading, close the Public Hearing, and continue deliberations to a date certain; OR
- 3) Approve the Third Reading, set a Fourth Reading and continue the Public Hearing to (Date Certain) at 1:30 PM and direct staff to revise Ordinance No. 23-06 and/or Order 23-08-_____-_____ as directed by the Board (summarize revisions).

1) RECOMMENDATION

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

2) 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.

3) FOLLOW-UP

If the Ordinance is enacted, it will go into effect on January 1, 2024.

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.

4) 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

4. Customer Service Center Handouts

a. Handout #1 – Upcoming Erosion Prevention Requirements

b. Handout #2 – Erosion Prevention and Sanitation Permits

c. Form #1 - Soil Disturbance Tracking Form

5. Public Comments Received from August 21 to September 1, 2023

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](#)

- [2020 DEQ 1200-C General Permit](#)
- [2021 DEQ 1200-C Appendix B – Natural Buffer Zone Requirements](#)

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.

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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.

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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;

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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.

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“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.

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“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.

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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.

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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:

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- 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

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- 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:

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- 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.

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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.

At left margin indicates changes
Bold indicates material being added
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**LEGISLATIVE
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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Bold indicates material being added
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**LEGISLATIVE
FORMAT**

10.090

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.

At left margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

**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.

| At left margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted

**LEGISLATIVE
FORMAT**

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: 23-09-19-08

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 19th day of September, 2023.

Pat Farr, Chair
Lane County Board of Commissioners

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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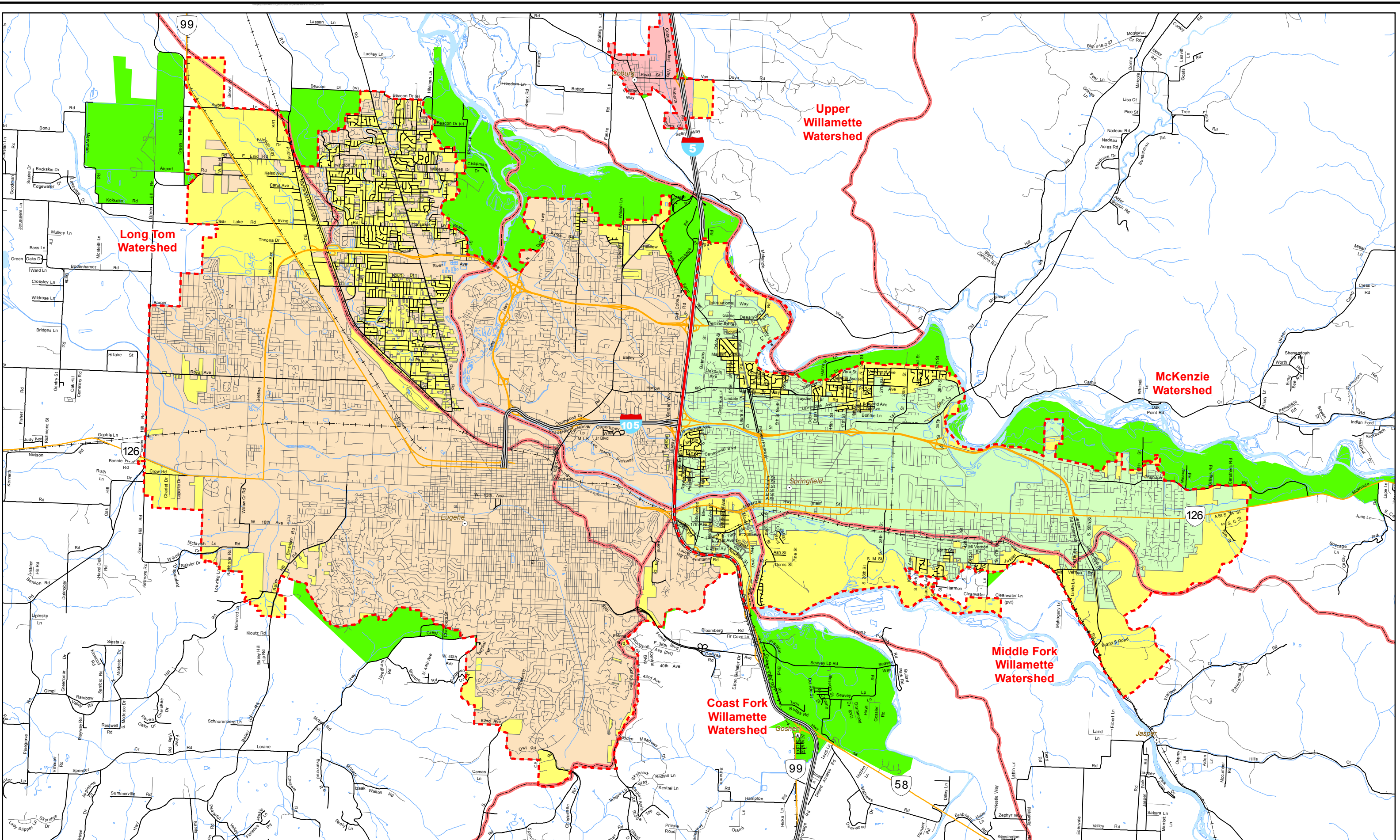
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ATTACHMENT #3

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.

ATTACHMENT #4

**Customer Service Center Handouts and
Soil Disturbance Tracking Form**



Upcoming Erosion Prevention Requirements

EROSION PREVENTION, 3050 N DELTA HWY, EUGENE OR 97408, 541-682-7660

lcpwlmstormwater@lanecountyor.gov
www.lanecountyor.gov/erosionprevention

Lane County is in the process of adopting new erosion prevention standards for construction projects. The standards are a requirement of the County's National Pollutant Discharge Elimination System (NPDES) permit. Development projects that involve land disturbance will be required to use practices and equipment to prevent and control soil erosion and pollution on construction sites. These practices and equipment are called best management practices (BMPs).

The erosion prevention code is scheduled to be presented to the Lane County Board of Commissioners in a Public Hearing on August 22, 2023. Comments and questions about the new code and program may be brought to the Hearing, or may be sent to Erosion Prevention staff via the phone number or email address listed above.

The new erosion prevention requirements are proposed to go into effect beginning January 1, 2024. The proposed Code language and Erosion Prevention Manual are available for viewing on the County's new erosion prevention webpage, www.lanecountyor.gov/erosionprevention.

The erosion prevention standards will apply to development projects on properties that involve land disturbance, regardless of whether a permit is required. Projects needing to meet standards include:

- Building permits for new and replacement structures, and additions
- Construction of structures that do not trigger a building permit
- Driveways and access roads
- Septic site evaluations, installations, repairs, and alterations
- Agricultural buildings
- Grading, including floodplain removal and fill
- Clearing and grubbing
- Trenching

All land disturbances must meet the erosion prevention outcomes. The required outcomes include keeping a clean site; protecting soils from erosion; protecting natural areas, water ways, septic fields, rights-of-way, and adjacent properties; ensuring against chemical and debris pollution; and stabilizing soils upon the completion of construction.

The type of erosion prevention permit required will depend upon the amount of land disturbance, its location, and the proposed use. Land disturbance of an acre or more or that is part of a project that is an acre or more will require a 1200-C permit approved by the Oregon Department of Environmental Quality (DEQ).

Erosion prevention permits will need to be approved prior to any land disturbance and prior to the release of any associated development permit. A typical permit will involve the following steps:

- Submit the erosion prevention permit with an erosion plan, details, and schedule.
- The erosion prevention permit submittal will need to designate a responsible party who will be in charge of the erosion prevention measures on site.
- The erosion prevention permit will be reviewed by staff and inspected for proper placement of BMPs prior to approval of the associated development permit and prior to the beginning of any land disturbance.
- The BMPs will need to be maintained through the course of construction. Additional inspections and additional reporting to County staff may be required.
- Stabilization and final stabilization inspections will be required prior to the erosion permit close-out.

For more information, please see the Erosion Prevention webpage, or call Erosion Prevention staff at (541)682-7660. Staff are working to establish a fee schedule. Permit fee amounts will be posted as soon as they are established.

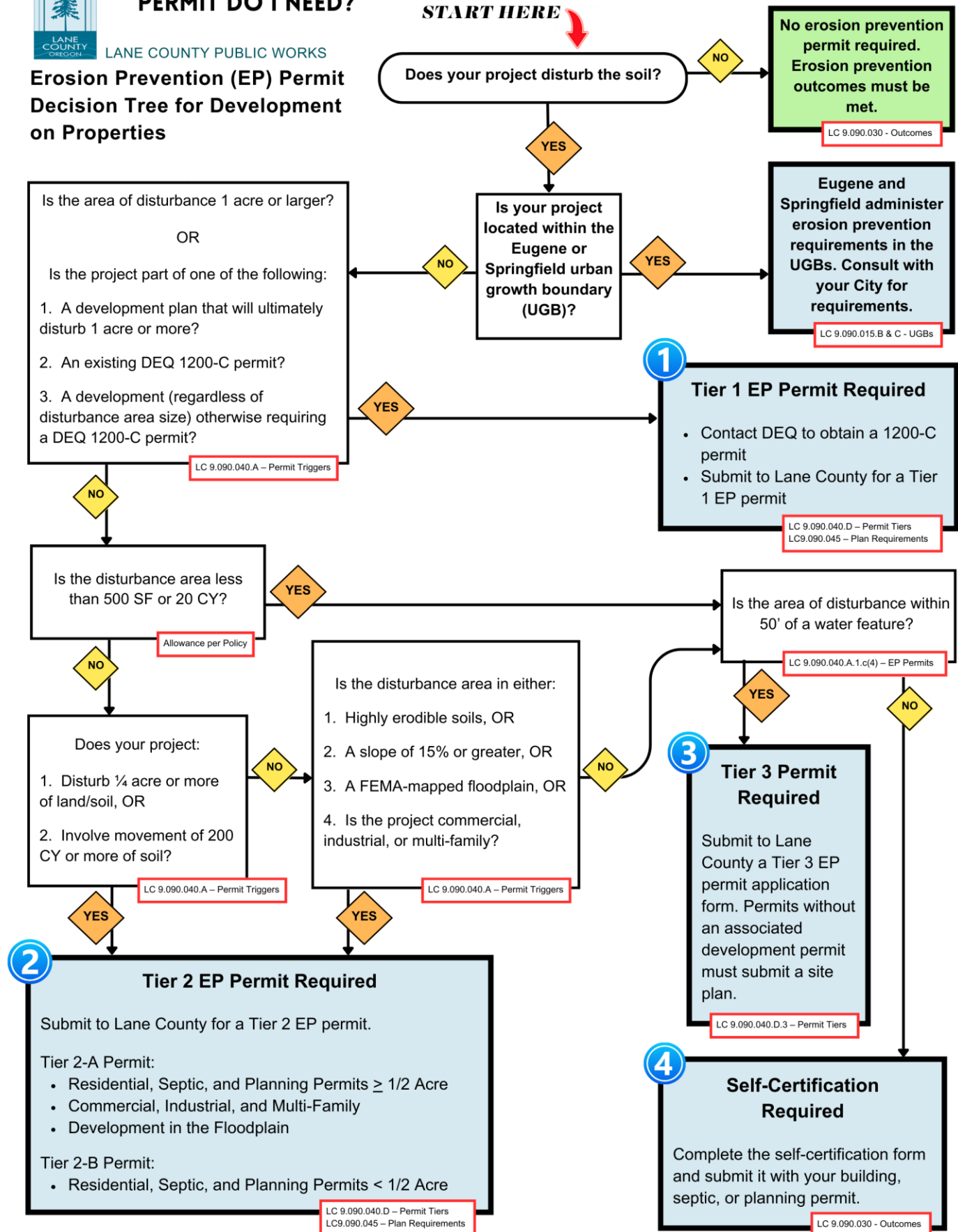


LANE COUNTY PUBLIC WORKS

Erosion Prevention (EP) Permit Decision Tree for Development on Properties

WHAT TYPE OF LANE COUNTY EROSION PREVENTION (EP) PERMIT DO I NEED? *

START HERE



* See the Lane County Erosion Prevention Code, LC 9.090, for code and permitting requirements. Exemptions from this code include farming, mining, & forest activities. Exceptions that do not need a permit but must meet outcomes incl. home gardening, landscaping maintenance, and driveway/private road/parking area maintenance.

8-2-2023 ILJ

LAND MANAGEMENT DIVISION / PUBLIC WORKS DEPARTMENT / 3050 N DELTA HWY / EUGENE, OR 97408

Erosion Prevention: www.lanecountyor.gov/erosionprevention / (541)682-7660 / lcplwimdstormwater@lanecountyor.gov

Version Date: 8/4/2023, ILJ



Erosion Prevention and Sanitation Permits

EROSION PREVENTION, 3050 N DELTA HWY, EUGENE OR 97408, 541-682-7660

Email: lcplwmdstormwater@lanecountyor.gov

County Erosion Prevention Website: www.lanecountyor.gov/erosionprevention

The new erosion prevention requirements will go into effect on January 1, 2024. All land disturbances (except for a few exemptions such as mining, forestry, and farming) must meet the erosion prevention code and outcomes, *regardless of whether a development permit is required, and regardless of whether an erosion prevention permit is required.*

Septic permits **submitted** on or after January 1st will be required to meet erosion prevention outcomes and, if required, obtain an erosion prevention permit. When an erosion permit is required, the soil disturbance may not begin until the erosion permit is issued; once the erosion permit is approved, Erosion staff will sign off on the sanitation permit so that Sanitation staff may approve it.

Please visit the County's Erosion Prevention website, www.lanecountyor.gov/erosionprevention, for more information. Look for the erosion prevention permit decision tree, or ask for a paper copy at the Customer Service Center.

An Erosion Prevention Manual will also soon to be posted on the County's website. The Manual will contain information about the different types of best management practices (BMPS) that can be used to prevent and control erosion and pollution on a job site.

Information Applying to Sanitation Site Evaluation, Installation, Repair, & Alteration Permits:

- Land disturbance is defined as a change in the physical conditions of the landform and/or vegetation, made by activities such as digging, excavating, filling, clearing, grading, grubbing, and the storing of soil and materials. When calculating the amount of disturbance, be sure to include actual trench and pit sizes, as well as the ground surface area that will be used for soil stockpiling.
- Land disturbance areas will need to be included on erosion prevention permit applications.
- **Erosion Prevention Outcomes.** Even if an erosion permit is not required, projects will be required to meet these outcomes:
 1. Protect roads, water features, sanitation systems, natural resource areas, & adjacent properties from:
 - Concentrated runoff flows and sediment discharge.
 - Construction-related pollution and debris.
 - Contaminants and hazardous substances.
 2. Contaminants and hazardous substances may not be released on the site.
 3. Soils and stockpile areas must not be exposed to rain or runoff without BMP protections and/or perimeter controls.
 4. Earth movement leaving the property may not exceed that of the natural processes of the undisturbed site.
 5. Plastic erosion prevention BMPs may not be left to deteriorate in the landscape.
 6. Final stabilization of the site is required upon completion of the project.
- **Erosion Permit Triggers.** (Please see the erosion prevention permit decision tree online or on the [Upcoming Erosion Prevention Requirements](#) handout for a graphic representation of this information):
 - Projects that disturb less than 500 SF or 20 CY *and* are not within 50' of a water feature will not require a permit.
 - Land disturbances of any size that are within 50' of a water feature will be required to obtain an erosion permit.
 - Projects that disturb ¼ acre or 200 CY or more of land require an erosion permit.
 - For projects that are 500 SF or 20 CY or more but are less than ¼ acre or 200 CY, a permit will be required if the site is within 50' of a water feature or if one or more of the following exists:
 - The project is located in highly erodible soils,
 - The project is located on slopes of 15% or greater,
 - The project is within a FEMA-mapped floodplain, or
 - The project is, or is in support of, a commercial, industrial, or multi-family development.
- For projects that encompass multiple soil disturbances (e.g., building, sanitation, and grading work) at the same time, the disturbance areas will be added together to calculate a sum total of land disturbance.
- **Responsible Person.** Sites that are required to obtain an erosion permit must establish a responsible person who is responsible for meeting the erosion prevention outcomes as well as for any violations of the erosion code.
 - The responsible person has to be available to Erosion staff for questions and inspections.
 - A contractor or an owner or their agent may be designated as the responsible person.
 - Large projects with multiple soil disturbance areas will need to be coordinated under a single erosion prevention plan. Owners will need to work with all their contractors to establish a single responsible person.

- Sanitation permits in the urban growth boundaries (UGBs) of Eugene and Springfield must meet the City's erosion prevention code requirements. Please contact the Cities directly for their erosion requirements.
- **Tiered Permit and Fee System.** Erosion permits will have a tiered permitting and fee system, depending upon the size and type of project and its location. **See the County's erosion prevention permit decision tree for more information.**
 - Staff are working to establish a fee schedule. Once established, the fees will be posted on the County's Erosion website.
 - **Tier 1** permits are for disturbances of 1 acre or more and will require the submittal of an approved DEQ 1200-C permit. Stand-alone sanitation permits will generally not require this large of a permit, but, if a sanitation permit is proposed at the same time as other development, the overall disturbance may be large enough to trigger a Tier 1 permit.
 - **Tier 1 and Tier 2** permits will require an erosion and sediment control plan (ESCP). See the County's Erosion Prevention Manual for more information on how to assess your site and draw up an ESCP. For Tier 1 permits, the ESCP that was approved by DEQ is submitted with the County permit (there's no need to make an additional ESCP just for the County).
 - **Tier 3** permits do not require submittal of an ESCP, but a complete site plan must be submitted, showing all existing and proposed development.
 - For those septic permits that do not require an erosion permit, the contractor or owner shall sign a self-certification form attesting that the erosion prevention outcomes will be met. There will not be a fee for the self-certification form.

Some Permit-Specific Information for the Different Sanitation Permit Types:

- **Site Evaluation Permits**
 - Since Site Evaluations include digging pits into the ground, they are subject to the erosion prevention code and must meet its requirements, including the outcomes listed above.
 - Since Site Evaluation pits are small (generally under 500 SF or 20 CY), they will usually not require an erosion permit, unless they are located within 50' of a water feature, in which case, they would trigger a Tier 3 permit.
- **Installation Permits**
 - Installation permits may be large enough to trigger permit requirements. Verify the area of disturbance and consult the permit decision tree. Remember to include all projects (not just the sanitation work) in your disturbance area calculations.
 - Projects that are under ¼ acre or 200 CY will still require a Tier 2 permit if the site is in a highly erodible soil, in slopes 15% or greater, in a FEMA-mapped floodplain, or if the overall project is a commercial, industrial, or multi-family project.
- **Septic Repair and Alteration Permits**
 - Minor repair and alteration permits are generally small disturbances, but may trigger a Tier 1 or Tier 2 permit, depending upon size, location, and use, and whether or not they are part of a larger development site. For small projects that do not trigger a Tier 1 or Tier 2 permit, remember to verify whether a Tier 3 permit might be needed, based upon proximity to water features.
 - Major repair and alteration permits may be large enough to trigger the need for an erosion permit. Verify the area of disturbance and consult the permit decision tree. Remember to include all projects occurring at the same time (not just the sanitation work) in your disturbance area calculations.

Typical Erosion and Sanitation Permit Review Steps for Tier 1 and Tier 2 Permits:

Erosion permits will need to be approved prior to any land disturbance and prior to the release of the septic permit. A typical permit will involve the following steps:

- Submit the erosion prevention permit either with or prior to the submittal of the sanitation permit.
- The erosion prevention permit will be reviewed by staff. Once approved, it will be issued for installation of the required BMPs.
- Staff will inspect the BMP installation. When approved, staff will issue the erosion permit and sign off on the septic permit. Sanitation staff will then be able to issue the sanitation permit.
- The BMPs will need to be maintained through the course of construction. Additional inspections may be needed.
- The septic permit may be finalized prior to the final for the erosion inspection, but the responsible person must ensure that final stabilization is completed.
- Erosion Prevention staff will inspect the site for final stabilization and will final the erosion permit, upon approval.

For more information, please see the Erosion Prevention webpage, or call Erosion Prevention staff at (541)682-7660.



Erosion Prevention Soil Disturbance Tracking

LAND MANAGEMENT DIVISION 3050 N DELTA HYW, EUGENE OR 97408

BACKGROUND:

Lane County is required by the federal Clean Water Act to maintain a National Pollutant Discharge Elimination System (NPDES) permit that implements best management practices to prevent contaminants from reaching our streams and rivers via stormwater runoff. As a part of our NPDES permit, an erosion prevention program is being created. The goal of the erosion prevention program will be to prevent land development from resulting in erosion, sedimentation, and soil loss. While the erosion prevention program is still under construction, staff are beginning to collect soil disturbance impact data.

Please complete this first page of the form and return it with your building permit submittal. Additional information about the future erosion prevention program and the requested information is included on the back of this form.

Property Address/Location: _____

City: _____ **State:** _____ **Zip Code:** _____

Tax Map and Parcel Number: _____ - _____ - _____ - _____ - _____

Project Description: _____

Please check whichever are present:

1. ☐ Site is within a mapped FEMA floodplain
2. ☐ Site drains directly to a water feature
3. ☐ Site is within either of the following areas, per the Oregon DOGAMI HazVu map:
 - ☐ High or Very High Landslide Hazard
 - ☐ Moderate or High Liquefaction Hazard
4. ☐ Site has a 10% slope or greater prior to excavation

Please provide the following land disturbance information:

Square footage of disturbed land area: _____

Volume (in cubic yards) of disturbed soil: _____

Signature: _____ **Date:** _____

Printed Name: _____ **Permit Number:** _____

Erosion Prevention Information

Erosion is a natural process where wind and rainwater runoff cause soil and rock material to be carried away.

Construction Erosion is a term used to describe the impact of construction on the environment. Construction sites are often a major source of stormwater pollution. When soil is disturbed, left bare and exposed to the abrasive action of wind and water, the natural process of erosion is accelerated and may harm adjacent lands and waterways.

Rain is the driving factor behind most erosion in Lane County. Eroded sediments can affect adjacent properties, storm systems, and rivers and streams. When sediments enter waterways, they block sunlight, limit plant growth, harm aquatic life, and interfere with recreational use and enjoyment. Sediments remove oxygen from the water, making it hard for fish to breathe and feed. Sediments can also smother salmon and trout eggs. Other pollutants—including nutrients, bacteria, metals, and some toxic substances—can attach to sediments and are then carried into the waterway.

The County is currently in the early stages of developing an Erosion Prevention Program. As the program details are compiled, information will be available to the public. Staff are collecting the information on the front page as a way to collect data and assess impacts of the program. Questions about erosion prevention and this form may be directed to BODSODTech@lanecountyor.gov or (541)682-4620.

Please note that County Planning continues to enforce erosion requirements based upon its zoning and overlay requirements. Please contact County Planning at (541)682-3577 if you have any questions about Planning requirements.

Definitions

Disturbed Area: A parcel or a portion of a parcel of land where the vegetation, landform, or topography is altered due to logging, clearing, grubbing, grading, paving, stockpiling, or building. The **Area of Disturbance** is calculated as a square footage. All altered areas, including driveways, parking areas, septic fields, underground piping, and fuel break clearing, shall be included in the disturbance area. The entire disturbance area of all proposed structures shall be included, even those that do not require a permit.

Land Disturbance: Activities that can change the physical conditions of landform, vegetation, and hydrology, including, but not limited to, clearing, grading, grubbing, excavating, filling, logging, and storing of materials.

Runoff: The resulting stormwater flows across the ground surface during and after a rainfall event.

Volume of Disturbance: The volume of land that will be impacted by the proposed construction, as calculated in cubic yards.

Length x width x depth = volume. It is important when multiplying these measurements that all the units are the same.

1 cubic yard = 27 cubic feet.

Water Feature: A permanent or intermittent body of water, including creeks, streams, ponds, rivers, lakes, natural resource areas, drainage channels, and jurisdictional wetlands.

ATTACHMENT #5

**Public comments Received from August
21 to September 1, 2023**



Dear Louranah and Board of Commissioners,

The six habitat restoration and conservation groups of the Upper Willamette Stewardship Network are writing to express strong concerns about the scope of Lane County's proposed erosion control ordinance. While we generally support practical regulatory actions that protect and improve habitat and water quality in Lane County, we're concerned that the proposed ordinance, as currently written, will have a disproportionate negative impact on the important restoration work that we do. The ordinance, as proposed, goes above and beyond the requirements of the County's MS4 NPDES permit and DEQ's Willamette Basin TMDL for mercury (confirmed to us by a DEQ staff person), and would add additional administrative processes and cost to the habitat restoration and water quality improvement projects that we implement that benefit the people of Lane County.

Potential erosion and water quality impacts of the work that we implement are already heavily regulated by the Oregon Department of Environmental Quality through the 1200-C permitting program (for projects with >1 acre of ground disturbance) and by the US Army Corps of Engineers and DEQ through the Clean Water Act Section 401 water quality certification that is required for all ground disturbing projects below ordinary high water or within wetlands. The CWA 401 permits are triggered whenever we submit joint permits or pre-construction notifications to the Army Corps, which we do for every project.

The proposed ordinance would add significant cost to our projects, with the anticipated permit fees to be charged by Lane County and by the added staff time it will take our project managers to prepare applications and material to submit to Lane County planning for review and approval. Perhaps even more impactful would be the additional time that this review will take. Lane County staff already have challenges managing the volume of permit reviews under the current regulatory framework. Adding another layer will further complicate those challenges while also delaying projects in the public's interest.

We have noted the existing exemptions in the proposed ordinance for forestry, mining, and agriculture activities, and for work done on Lane County rights-of-way. It would make sense then to consider additional exemptions for restoration projects being carried out in the public interest.

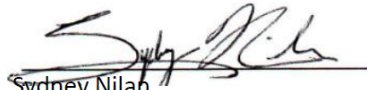
We would like to propose the following for your consideration in the ordinance:

- Add an exemption in section 9.090.020 of the proposed ordinance for habitat restoration projects. Similar to the other exemptions offered in the ordinance, our projects are already required to acquire a number of other regulatory permits. They are also vetted by a variety of government agencies and competitive grant review teams staffed with interdisciplinary teams of scientists that are natural resources experts looking out for the public interest. Additionally, ORS 215.213(o) and 215.283(m) identify "Creation, restoration or enhancement of wetlands" as an approved use of lands zoned EFU, so the wetland restoration projects that we implement should be considered farm use and therefore exempt as per the proposed ordinance.
- If necessary, you could implement an exemption review process similar to the riparian modification ordinance, that requires sign-off by a Soil and Water Conservation District and the Oregon Department of Fish and Wildlife.
- If necessary you could also choose to exempt only projects with approved 1200-C permits or CWA section 401 Water Quality Certifications, and require proof of those permits to be submitted to Lane County prior to approval of an exemption. In discussions with DEQ staff, we have confirmed that if a project already has a 1200-C permit, it would not need an additional permit from Lane County to satisfy Willamette Basin Mercury TMDL rules.

We hope that you consider our request for these exemptions. We greatly appreciate the increased attention that Lane County is giving to floodplain and river health. Our Partnership is committed to such work. We ask that you consider the

full range of impacts of the proposed erosion control measures, including how it might unnecessarily restrict good projects in the public interest.

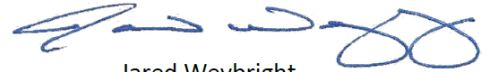
Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Sydney Nilan'.

Sydney Nilan
UWSN Director

A handwritten signature in blue ink, appearing to read 'Amanda Gilbert'.

Amanda Gilbert
CFWWC Executive Director

A handwritten signature in blue ink, appearing to read 'Jared Weybright'.

Jared Weybright
MWA Executive Director

A handwritten signature in black ink, appearing to read 'Dov Weinman'.

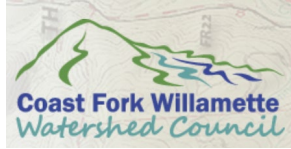
Dov Weinman
MFWWC Executive Director

A handwritten signature in black ink, appearing to read 'Steve Dear'.

Steve Dear
LTWC Executive Director

A handwritten signature in purple ink, appearing to read 'Joe Moll'.

Joe Moll
MRT Executive Director



August 7, 2023

Lane County Board of Commissioners
125 E 8th Avenue
Eugene, Oregon 97401

Cc: Erosion Prevention staff at the Land Management Customer Service Center

Cc: Heather Buch, Commissioner - District 5 East Lane County

Subject: Public comment for meeting date 08/08/2023 on Ordinance No. 23-06 and amendment of Lane Code 9.090 – Erosion Prevention Regulation

Dear Lane County Board of Commissioners,

Thank you for the opportunity to provide comments on Ordinance No. 23-06 and the proposed erosion prevention regulations, which will apply county-wide to a wide array of activities broadly defined as land disturbance. The Freshwater Trust (TFT) is an Oregon-based nonprofit organization founded in 1983 with a mission to preserve and restore freshwater ecosystems. As an organization dedicated to protecting and improving habitat for wild salmonids, TFT applauds Lane County's efforts to improve water quality and habitat for aquatic life in the Willamette River watershed. However, we submit these comments to respectfully request that ecological restoration and improvement be added to the list of activities exempted from the provisions of LC chapter 9.090. This will ensure that the proposed regulations do not stand in the way of restoration actions that directly improve the health of the watershed.

TFT shares the County's goal of improving watershed health, and to advance this goal, TFT has developed a number of riparian reforestation programs. Most recently, in 2023, TFT partnered with the McKenzie Watershed Council, the Coast Fork Willamette Watershed Council, the Middle Fork Willamette Watershed Council, the Metropolitan Wastewater Management Commission and others to launch a riparian reforestation program in Lane County and the Upper Willamette watershed. As part of this program, TFT removes invasive vegetation then plants native trees and shrubs at project sites to improve wildlife habitat and water quality. In addition to shading rivers, these projects improve water quality by reducing runoff and bank erosion, provide important riverside forest habitat, and supporting river processes that are essential to salmonids and other aquatic organisms. When implementation is complete in 2027, we expect to have replanted native forests on the streambanks of up to 30 sites in Lane County, which TFT will then actively steward for 20 years after planting.

In light of the importance and benefits of riparian restoration projects, we urge the Commission to exempt such restoration from the proposed regulations. As currently defined in the draft ordinance, land disturbance includes changing the physical condition of vegetation within floodplains and within 50 feet of a water feature. This definition would include riparian restoration projects with weed suppression and

planting activities. While weed control and stewardship activities do temporarily remove some, primarily non-native vegetation in the riparian area—and such actions are undertaken in compliance with separate permits secured from the County or other relevant entities—ground disturbance from these activities is minimal because the focus is on removing the aboveground portions of the weeds. Restoration projects are designed to rapidly replace weeds with native vegetation that stabilizes the soil and improves water quality treatment functions on site. Further, installation of native trees and shrubs typically involves minimal soil disturbance: small bare root plants are generally the preferred stock type and are installed with a planting spade that creates a slit in the ground into which roots are inserted before it is pressed closed. Container plants are less commonly used but holes are dug that typically displace a gallon or less of soil that is immediately replaced around the plant and pressed around the roots.

Ecological restoration projects do not create substantial erosion and sedimentation risk because they do not typically change the physical condition of landforms or include grading, excavating, or fill; create large bare areas; or move many cubic yards of soil. Rather than being the type of action that should be further regulated to protect the watershed, these types of riparian restoration activities directly advance the goals of the proposed ordinance and code amendments and, therefore, should not be subject to further regulations. We respectfully request that weed removal and planting for the purposes of ecological restoration and improvement be added to the list of activities exempted or excepted from the provisions of LC chapter 9.090.

We are happy to respond to any questions or provide additional information. Thank you for your consideration.

Sincerely,

Meg Belais
Northwest Programs Director
The Freshwater Trust

Amanda Gilbert
Executive Director
Coast Fork Willamette Watershed Council

Dov Weinman
Executive Director
Middle Fork Willamette Watershed Council

Jared Weybright
Executive Director
McKenzie Watershed Council

8/22/2023

Dale A Saari
85177 Pine St
Florence, Or 97439

Lane County Board of Commissioners
125 E 8th Av.
Eugen OR 97401

RE: Lane County Erosion Control

Dear Chairman Farr and fellow Commisioners,

Thank you for allowing me to testify today regarding this important matter of proposed new regulations for Erosion Control.

I have been a resident of Lane County for 51 years and a real estate practitioner in Lane County for 43 years. I also served The Senate Ag and natural resource Committee in the 97 and 99 Legislative sessions by doing Land Use and Transportation research for that Committee.

I rise in opposition to adding any more regulatory burden to the people of Lane County through the implementation of this plan. For all 51 years in Lane County, I have seen government and regulatory burden grow to degree that utterly destroys the prospect of building affordable homes in Lane County.

Specifically, the requirement to file for an erosion control permit for even a septic test hole or landscaping my yard is completely over the top.

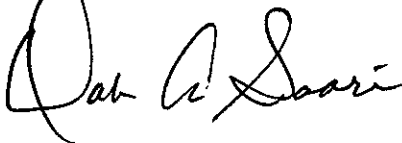
On one hand we have a huge mandate for Affordable housing and on the other hand we have a government that institutes policies that make affordable housing impossible by creating unknown time delays and added expense to the builders and landowners.

In the past I have asked Lane County planners why they feel the need to implement certain laws. They have replied that their hands are tied because DLCD requires it. That is not accurate. Lane County has great latitude with DLCD during periodic review. In fact, during the 1999 Legislative Session SB 543 was passed and became ORS 197.628-197.650. The new law was written to simplify the process of periodic review and to ensure that comp plan updates concentrated attention on goals that addressed housing, employment, transportation and public facilities.

I request that you stop this new regulatory burden from ever going into effect.

Thank you,

Dale A. Saari

A handwritten signature in black ink, appearing to read "Dale A. Saari", written over the printed name.

From: STACK Joseph P * ODFW <Joseph.P.STACK@odfw.oregon.gov>

Sent: Tuesday, August 22, 2023 9:38 AM

To: LC PW LMD Stormwater <LCPWLMDStormwater@lanecountyor.gov>; JANESKI Louranah <louranah.janeski@lanecountyor.gov>

Subject: Proposed Lane County Erosion Prevention Code

[EXTERNAL 

Louranah,

The Oregon Department of Fish and Wildlife (department) appreciates the opportunity to provide comments on Lane County's proposed Erosion Prevention Code Amendments (LCC 9.090). The department understands that the intent of the County's proposed code is to protect the quality of surface and subsurface waters through best management practices for erosion prevention and reducing temperature, bacteria, and mercury within the basin.

However, the department is concerned that current language may have unintended consequences as it relates to habitat restoration efforts within the County. There are many private and public restoration practitioners actively engaged in implementing projects to create or improve features that provide benefits for fish and wildlife and simultaneously address the County's erosion prevention concerns. The department recommends the County consider an exemption for habitat restoration activities, similar to those activities that are currently listed within the proposed exemptions (LCC 9.090.020). For example, the exemption could include habitat restoration projects that have received review and approval from a state or federal regulatory agency. Many restoration projects already face tight budgetary restraints, as well as time spent in review and approval of the projects. ODFW is concerned that this proposal may result in slowing the pace and scale of restoration projects that can contribute to the County's efforts to avoid or mitigate erosion and prevent or reduce the pollution of waters of the state.

Thank you for the opportunity to provide comments and recommendations. The department welcomes the opportunity to work with the County to modify the proposed code language to provide an exemption for habitat restoration projects, which can benefit the County as it works to address its erosion prevention goals.

Joe Stack

Regional Habitat Biologist

Oregon Dept of Fish and Wildlife

South Willamette Watershed District

Office: 541-757-5301/ Cell: 541-650-2840

From: [BUCH Heather H](#)
To: [keith consiglio](#)
Cc: [JONES Diana L \(CAO\)](#); [SERSLEV Rachel](#)
Subject: RE: Erosion
Date: Wednesday, August 23, 2023 1:23:36 PM

Hi Diana and Rachel,

Is there a way these comments can be entered into the record as requested below?

Stay safe,
Heather Buch (she/her)
Lane County Commissioner - District 5
Heather.Buch@lanecountyorg.gov
125 E. 8th Ave.
Eugene, OR 97401
541.682.4203

-----Original Message-----

From: keith consiglio
Sent: Wednesday, August 23, 2023 6:51 AM
To: BUCH Heather H <Heather.BUCH@lanecountyor.gov>
Subject: Erosion

[EXTERNAL]

Hello,

I'm a small excavating company in Florence and I'm very concerned about the impacts the new erosion control measures will have on my business and my customers. This measure will be another logistical and financial hurdle for developing affordable housing in rural lane county, maintaining rural driveways, creating fire safe spaces around rural properties, keeping older septic systems functioning, etc.

Is there any way these comments can be taken in to consideration?

Many of my customers are living on a fixed or very limited income and I don't want to see rural residents of lane county not be able to afford to keep their properties maintained.

Thanks

Keith Consiglio
Owl Properties LLC