



AGENDA COVER MEMO

Memorandum Date: November 9, 2023
First Reading Date: August 8, 2023
Second Reading / Public Hearing Date: August 22, 2023
Third Reading / Public Hearing Date: September 19, 2023
Fourth Reading / Public Hearing Date: November 28, 2023
Fifth Reading / Public Hearing Date: December 12, 2023

TO: Board of County Commissioners
DEPARTMENT: Public Works / Land Management
PRESENTED BY: Louranah Janeski, Stormwater Permitting Specialist
Anne Davies, LCOG Consultant
James Chaney, 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 April 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 April 1, 2024 (LM 9.030)

I. MOTION

November 28, 2023 (4th Reading and Public Hearing):

- 1) Move to approve either Option A or Option B of (a) Ordinance No. 23-06 and (b) Order 23-08, both as presented; and to set the Fifth Reading and Public Hearing for December 12, 2023, at 1:30 PM (as already scheduled on the Board calendar).

December 12, 2023 (5th Reading and Public Hearing):

- 1) Move to approve Ordinance No. 23-06 and Order 23-08 as presented; OR
- 2) Move to set a Sixth Reading and continue the Public Hearing to (Date Certain) at 1:30 PM; OR
- 3) Move to set a Sixth Reading and continue the Public Hearing to (Date Certain) at 1:30 PM and direct staff to revise Ordinance No. 23-06 as directed by the Board (summarize revisions).

II. AGENDA ITEM SUMMARY

This is a request for Board approval of Ordinance 23-06 and Order 23-08 to adopt new erosion prevention code requirements within the Municipal Separate Storm Sewer System (MS4) areas of Lane County that are not within the urban growth boundaries (UGBs) of the Cities of Eugene and Springfield. See the Lane County MS4 Phase II Area map in the **Attachments**. Previous Hearings have proposed the adoption of this Ordinance throughout the entire county; that scope has now been narrowed to cover only the MS4 areas, which is the minimum requirement of the County's federal National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II General Permit. Additional changes to the proposed ordinance have been made and are discussed in this cover memo.

Because of the shift in scope, staff are presenting two options for the proposed erosion code language to the Board: Option A includes permitting triggers for sensitive areas (i.e., sites within areas that either have highly erodible soils or steep slopes or are located within the FEMA-mapped floodplain) and Option B does not include sensitive area triggers. See the Analysis in Section F for a discussion of these two options. Staff asks that the Board approve one of the options at this Reading to continue to the Fifth Reading and adoption.

The Track-Changes version of each code language option is attached in Exhibit A, so that the changes staff have made since the Third Reading are more apparent. Once Board chooses an option, the code will be updated by the Lane County Office of Legal Counsel to the BCCREV and LEGREV versions for adoption and presentation in the Board packet for the Fifth Reading.

Both of the erosion prevention code options are written to meet the required conditions of the County's federal NPDES MS4 Phase II General Permit. Previous drafts presented to the Board were written to also meet the County's federal Willamette River Mercury Total Maximum Daily Load (TMDL) Water Quality Management Plan. As TMDL permit requirements do not have to be adopted until 2025, staff, upon direction from the Board, have removed code requirements to meet those standards and will, instead, proceed with a public outreach program prior to returning to the Board at a later date to adopt additional erosion prevention measures to meet that TMDL permit.

The MS4 Phase II permit is federally required and is administered by the Oregon Department of Environmental Quality (DEQ). The County is required to adopt this ordinance as soon as possible, as the MS4 Phase II deadline for adoption was February 28, 2023. This Ordinance will take effect April 1, 2024, to allow for education and training of the public and staff.

On Nov 1, 2023, staff were required to submit their Annual Report to the Oregon Department of Environmental Quality (DEQ) for the NPDES MS4 Phase II General Permit. In this report, staff indicated that, though the County is in the process of adopting an erosion prevention ordinance, the February 28, 2023 deadline for that adoption was missed. Oregon DEQ has noted that, if erosion prevention measures are not adopted in a timely manner, fees may be assessed on the County.

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 County developed its Willamette Basin 5-year Implementation Plan in 2008, and most recently updated the Plan in 2022. The County's TMDL requirement requires the adoption of erosion prevention regulations to address Willamette River Basin environmental concerns. These TMDL requirements are not being addressed as a part of the currently proposed Ordinance 23-06 and will, instead, be brought to the Board at a later date, following a public outreach period.

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.

On August 8, 2023, August 22, 2023, and September 19, 2023, staff presented the First, Second and Third Readings of the erosion prevention code, Ordinance 23-06, to the Board. Staff received public comments and direction from the Board. The Board directed staff to reduce the applicability of the proposed code to include only the MS4 areas, and hold a Fourth Reading, which was set for November 28, 2023. The Board also directed staff to include a public outreach and participation process in the code writing process for the Willamette River Basin Total Maximum Daily Load (TMDL) requirements that must be adopted by 2025. Staff met separately with Board members to discuss the erosion prevention ordinance and also met with the Western Oregon Builders Association.

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.

Currently, the County does not have a stormwater utility fee (as do many other jurisdictions) to assist in the support of the stormwater program. Some amount of additional funds will be raised through permit fees. The reduction of the permit applicability scope to cover only the MS4 area will trigger only a small number of permits, many fewer than were estimated for the entire county in the ACM for the Third Reading. The number of erosion permits required within the MS4 area will vary, most likely, between one and eight permits a month.

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 LMD Stormwater Management Program, which includes Erosion Prevention. 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, and the expansion of the erosion prevention program to include the TMDL erosion requirements.

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 [removed from consideration]
<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

Following public comment and discussions with the Board, staff plans to amend these fees to remove the Tier 3 permit, per the revised code language. Should the Board approve the Option A code language, an Annual permit will be added to the erosion prevention fee matrix. See the Option A and Option B discussions below in the Analysis section.

E. Health Implications

Both of the proposed erosion prevention code options 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 Springfield's drinking water wells and the McKenzie River, which is Eugene's sole source of drinking water. 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 were the drivers for erosion prevention standards code-writing process: 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). The proposed code language that was previously presented to the Board in Readings 1, 2, and 3 addressed the erosion prevention requirements of both of these federal permits. The Hearing 3 ACM includes an in-depth discussion of how the proposed erosion prevention code was developed. Building upon that process, following the 3rd Reading and Public Hearing, staff reviewed public comments, met with Board members, and met with the Western Oregon Builders Association to discuss the public's needs in regard to the MS4 Phase II code language. In response to public comments and Board direction, staff has removed from the code those measures that were proposed to meet the TMDL requirements.

Staff has drafted two options (Option A and Option B) for the proposed erosion code language and asks that the Board approve one in this Fourth Reading and Public Hearing. Since only the MS4 Phase II General Permit requirements must be met at this time, both options for the proposed erosion code have been reduced to encompass only the MS4 area outside the urban growth boundaries (UGBs) of Eugene and Springfield (see the Lane County NPDES MS4 Phase II Area map in the **Attachments**). Staff's ACM for Hearing 3 outlines in more detail the control measures that the County must adopt per the federal MS4 Phase II General Permit.

Staff will present additional code to the Board at a later date to meet the TMDL requirements, which must be adopted by 2025. As per Board direction, staff will conduct a public outreach program, including at least one public meeting, as part of the refinement process for the TMDL code.

Changes Made to the Proposed Code Since the Third Reading

Staff have composed two code language options (Option A and Option B) and ask that the Board approve one of these options at the Fourth Reading and Public Hearing.

The goal of the code development process has remained to create code that meets regulations, provides consistency with other Lane County local agencies, and is scaled to the potential for pollutant loads such as sediment and construction-related materials that may enter waterbodies. The proposed options A and B provide consistency with the neighboring cities, making permitting requirements easier for

applicants, thus reducing costs to applicants, and staff processing times as well.

Additionally, in both code language options, staff removed the Tier 3 permit and have made refinements to definitions and certain sections of code that had received comment. These changes are discussed further in this Analysis.

1. Applicability

Staff's initial code language proposed to adopt erosion prevention code within the entire county, addressing the requirements of the County's two federal NPDES permits that require implementation of an erosion prevention code and program [the MS4 Phase II Permit and the Willamette River Basin Total Maximum Daily Load (TMDL)] and upcoming Mid-Coast TMDL requirements. Following direction from the Board, the applicability scope has been reduced to the MS4 area, which is the only area that requires coverage at this immediate time. TMDL permit requirements do not have to be adopted until 2025. As directed by the Board, staff will continue public involvement on this effort and return to the Board at a later date.

2. Permit Triggers and Sensitive Areas

The MS4 Phase II General Permit requires permitting triggers based upon the area of disturbance. At a minimum, projects that disturb one-quarter (1/4) acre or larger must be permitted within the MS4 area. Both code language options contain this 1/4-acre permit trigger. The primary difference between Option A and Option B is that Option A includes an additional permit requirement for smaller disturbances within sensitive areas, while the sensitive areas trigger has been removed from the Option B.

In both Option A and Option B, the following changes have been made:

- The cubic footage permit trigger of 200 cubic yards (CY) has been increased to be 400 CY. This volume-based trigger approximates a 1-foot-deep excavation over a 1/4-acre. The use of a volume-based trigger can account for disturbances that may disturb a large amount of soil but may have a small footprint, such as projects with basements or deep septic or stormwater projects.
- The Tier 3 permit has been removed.

Following are discussions about the differences in permit triggers for each of the two code options:

A. Option A

In the Option A code language, staff retained permitting triggers for smaller soil disturbances (of 500 SF or 20 CY or larger) that are located in sensitive areas or within fifty (50) feet of a water feature that connects to a county or private storm system. Sensitive areas are defined as any of the following:

- Land located within the FEMA-mapped floodplain.
- Land containing highly erodible soils per the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) erosion hazard rating data.
- Steep slopes of 15% or greater

The extension of permit requirements to sensitive areas and to disturbances that are close to water features provides protections to the environment and to property owners. Development in sensitive areas has a significantly higher likelihood to cause erosion and damage to properties and waters of the State than development on a property without sensitive areas. Reasons for staff's inclusion of sensitive area permit triggers in the Option A code language include:

- The location of highly erodible soil types throughout the county, including within the MS4 area, per NRCS soil data records.
- The prevalence of Federal Emergency Management Agency (FEMA) mapped floodplains within the MS4 area.
- The dense pattern of rivers and streams that runs through and/or alongside the MS4 areas. The large amount of stream and river lengths increases the likelihood of impacts by construction practices to water features that are nearby. Disturbed and unstabilized soils are easily carried away by storm and flood waters, impacting not only the natural environments, but downstream properties as well.
- MS4 areas within the Eugene south hills contain steep slopes that can be less stable and allow runoff to flow down them at a higher rate than flat sites, increasing the likelihood of erosion and impacts to waterways and to neighboring properties.
- The MS4 area is located around the Cities of Eugene and Springfield.

Both of these Cities use sensitive area triggers in their erosion prevention codes. Contractors in the area have been working with these codes for many years and are educated in their application and know their importance.

A new type of permit will also be added to the permit structure: the Annual permit. An Annual permit will cover minor disturbances in sensitive areas on one or multiple lots, such as for utility work, County projects, and environmental restoration projects. The Annual permit will make the permitting process easier for applicants and for staff, allowing applicants to obtain a single annual permit to cover multiple, similar projects, with minimal submittal requirements.

Soil erosion is the county's primary illicit discharge. With the county's large number of river and stream miles, sediments can easily be discharged to water ways, even when there is no storm or flooding. The extension of permitting triggers to include sensitive areas allows the County to better address development on properties that are more prone to erosion. Staff strongly suggest that the Board approve Option A with its sensitive areas and water feature proximity triggers.

B. Option B

The sensitive areas and water feature proximity permit triggers have been removed from the Option B code language.

3. Minor Landscaping and Landscape Maintenance – Exemptions and Exceptions

Staff received a number of questions about what types of landscaping would need a permit and what would not. Exemption and exception language has been revised in both code language options to provide clarity and to address Board and public concerns.

Exemptions are activities to which the erosion prevention code does not apply. The exemption language for both code language options has been amended to clearly exempt the above-ground cutting and pruning of vegetation; above-ground mechanical mastication or mulching; and the use of grazing animals, such as goats, to remove above-ground vegetation.

Exceptions are activities to which the erosion prevention code does apply, but are

not required to get a permit. The exception language for both code options has also been amended to clearly except routine landscape maintenance activities, trail maintenance, and planting and weed removal projects that are done with hand-held tools. These activities are not required to obtain a permit and only need to meet the outcomes of protecting water features and properties from sedimentation and pollution.

4. Emergency Construction Language

The emergency language has been amended and clarified in both code language options. An exemption from permit is included for larger emergencies such as the Holiday Farm Fire. And additional language has been added to clarify that construction permit-related emergencies, such as a septic emergency, may proceed with the emergency work but that the erosion prevention permit, if required, must be submitted within three days. This type of procedure for emergencies is standard within the Building Department and the language was patterned after the State's Onsite Wastewater Treatment System Rules.

5. Education First

In response to public and Board comments, staff have clarified their education-first approach to enforcement by adding new language to the Enforcement section of both code options. The language states that the County, where possible, will rely upon education of applicants, owners, and contractors, as a first measure to make needed erosion prevention corrections at a construction site.

6. Definitions

In both code language options, revisions have been made to some of the definitions. Many of the revisions are just minor corrections or clarifications. The following definitions have been substantially updated:

- Certified Professional (This definition has been updated in Option A and removed from Option B)
- Final Stabilization
- Improper Disposal
- Water Feature

Some new definitions have been added as well:

- Development Permit
- Erosion Prevention Manual
- Municipal Separate Storm Sewer System (MS4)
- Municipal Separate Storm Sewer System (MS4) Area

Since the sensitive areas permit triggers have been removed from the Option B code language, the following definitions have been removed from Option B:

- Certified Professional
- Floodplain
- Highly Erodible Soil
- Slope
- Top of Bank
- Watercourse

Erosion Prevention Handouts and Manual

Staff are preparing multiple handouts and resources for customers and are available via phone and in person at the Customer Service Center to help walk people through their permitting questions.

Staff are finalizing their draft of the Erosion Prevention Manual and will have it uploaded to the county's Erosion Prevention website prior to November 28th. 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. The public will be invited to comment upon the Manual. Staff are also creating a sample erosion prevention plan to help customers visualize what measures may be needed on their site.

TMDL Erosion Prevention Outreach

Staff asks that the Board approve the following outreach measures to assist in the writing of the TMDL erosion prevention code that must be adopted in 2025 per the County's Willamette River Mercury Total Maximum Daily Load (TMDL) Water Quality Management Plan.

- A public meeting of date and location to be determined.
- A meeting with the Western Oregon Builders Association.
- The draft code and informational items will be made available for public comments on the County's erosion prevention website.

- The public will also be asked to comment on the Erosion Prevention Manual, which will be posted to the website.

G. Motions and Board Direction

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.

Please note that the Track-Changes version of each code language option is attached in Exhibit A, so that the changes staff have made since the Third Reading are more apparent. Once Board chooses an option, the code will be updated by the Lane County Office of Legal Counsel to the BCCREV and LEGREV versions for adoption and presentation in the Board packet for the Fifth Reading.

Options for motions to proceed forward are:

- 1) Move to approve either Option A or Option B of (a) Ordinance No. 23-06 and (b) Order 23-08, both as presented; and to set the Fifth Reading and Public Hearing for December 12, 2023, at 1:30 PM (as already scheduled on the Board calendar); OR
- 2) Approve the Fourth Reading, 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 per Board summarized revisions.

Board direction requested:

Staff request that the Board comment upon and provide direction regarding the proposed public outreach and involvement measures proposed in the TMDL Erosion Prevention Outreach measures listed in section F above.

IV. RECOMMENDATION

Staff recommends adoption of Option A Code language and Option A Lane Manual language, as presented in Option 1 above. Staff also recommends approval of the TMDL outreach measures listed above.

V. TIMING/IMPLEMENTATION

If approved, the Code changes will become effective April 1st, 2024. Staff is extending the standard 30-day implementation period to allow for customer planning time to prepare for the 2024 summer construction period. The additional period will also allow time for staff to provide staff training and to develop more customer education tools as needed. 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 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 in January 2024.

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.

VI. FOLLOW-UP

If the Ordinance is enacted, it will go into effect on April 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.

VII. ATTACHMENTS

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

Exhibit A: Option A Amendments to Lane Code Chapter 9

Exhibit B: Option B Amendments to Lane Code Chapter 9

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

2. Order No. 23-08 with the following Exhibits:

Exhibit D: Option A Amendments to Lane Manual

Exhibit E: Option B Amendments to Lane Manual

3. Lane County NPDES MS4 Phase II Area Map

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

- [2021 NPDES MS4 Phase II General Permit Modified](#)
- [2021 Willamette River Mercury TMDL – EPA](#)
- [2019 Willamette Basin Mercury TMDL - DEQ](#)
- [2020 DEQ 1200-C General Permit](#)
- [2021 DEQ 1200-C Appendix B – Natural Buffer Zone Requirements](#)

Attachment #1

Ordinance 23-06

Track-Changes Versions of Lane Code 9.090
Erosion Prevention Code

Exhibit A = Option A

Exhibit B = Option B

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 APRIL 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 April 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 April 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

OPTION A: MS4 Area Only, with Sensitive Areas. No changes proposed.

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 (MS4) Phase II permit- ~~and the Willamette River Mercury Total Maximum Daily Load.~~

9.90.10 – Definitions.

“Accumulation” means the deposit of mud, sand, soil, sediment, or construction-related 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, as determined by the Director, those 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, for the purpose of Section LC 9.090.040.B.2 of this code, 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 ~~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 materials that are used or created in the process of construction activities and that may contain potential water quality pollutants, ~~that are used or created during construction activities~~ including, but not limited to, ~~off-site deposits of~~ sediments deposited 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, and grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, and 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 Permit" means, for the purpose of this code, a permit for planning, building, or onsite wastewater that may trigger, due to land disturbance, the requirement of an erosion prevention permit.

"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.

"Director" means the Director of the Lane County Department of Public Works or the Director's designee.

"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.

"Erosion Prevention Manual" means a compilation, adopted by the Director, containing guidelines, instructions, best management practices, and other information to assist persons to comply with erosion control requirements.

"Final Stabilization" means a state in which the Director determines that the following criteria have been satisfied:

- A. There is no reasonable potential for discharge of a significant amount of construction-related sediment or turbidity to surface waters;
- B. Construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by temporary erosion and sediment controls;
- C. All temporary erosion and sediment controls have been removed from the construction site and disposed of properly, unless doing so conflicts with local requirements;
- D. All ground-disturbing activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased; and
- E. All disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures.
 - 1. Temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials); provided, that measures are in place to eliminate or minimize erosion.

2. Final vegetative stabilization is accomplished by establishing 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 on all unpaved areas and areas not covered by permanent structures.

~~“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 land area identified as a 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 a substance or chemicals that poses 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-fragmented~~ 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:

A. Depletion of the capacity of the County’s stormwater system;

B. Contamination of soils; or

C. Discharge of pollutants to the County’s stormwater system, private stormwater drainage systems, or related natural resource areas.

~~“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 as a result of~~ 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-any activity~~ that changes the physical conditions of landforms, vegetation, and/or hydrology, including, but not limited to, digging, clearing, grading, grubbing, excavating, filling, logging, and the ~~storing-storage~~ of materials. Such disturbance may be either 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.

“Municipal Separate Storm Sewer System (MS4)” means, for the purpose of this code, a collection and conveyance system that is owned, operated, or under the jurisdiction of Lane County for the sole purpose of collecting and conveying naturally occurring precipitation or stormwater runoff, including roads, ditches, channels, pipes, culverts, catchbasins, outfalls, and manholes. The stormwater sewer system is not a combined sewer system and does not include conveyance of any wastewater.

“Municipal Separate Storm Sewer System (MS4) Area” The Lane County MS4 area is located within the federal-Census-defined urbanized area surrounding the cities of Eugene and Springfield. This area includes portions of the cities’ urban growth boundaries (UGBs). Through intergovernmental agreements, the Cities enforce erosion prevention requirements within the UGBs. This code applies to those MS4 areas that are outside of the UGBs of those cities. The County Director will publish a map showing the Lane County MS4 area.

“Outcomes” means the beneficial 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, as defined in LC 9.090.030.

“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. Contains elements that are expected to be ~~Will begin and be~~ completed at different times, and
- D. Is proposed for development by ~~the same a single~~ person, or by a single group of related persons.

“Private Way” means any street, road, alley, right-of-way, or easement that is intended or used for passage by vehicles, bicycles, or pedestrians, or for ingress and egress to private land or is intended to provide for ingress and egress to land that is not controlled by a city, the County, or the State ~~not under the jurisdiction of a public body~~. 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 and not dedicated to the use of the public ~~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 which has been dedicated 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, an agent or contractor acting on behalf of a permit holder or property owner, or any other person who has been assigned responsibility for meeting the erosion prevention outcomes, and who will be responsible for any violation of this

~~Erosion Prevention Code 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 body of water that acts as a transitional area between terrestrial and aquatic ecosystems, and is distinguished by wet or moist soils and plants adapted to growing conditions associated with periodically saturated soils. ~~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 those 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/horizon. Expressed ~~in percentage terms as a percentage~~, slope represents the elevation change (rise) divided by the horizontal distance (run) between two (2) different points.

“Stormwater” or “Stormwater Runoff” means rainwater runoff, snow melt runoff, surface runoff, and drainage, including the portion of precipitation that does not evaporate or naturally percolate into the ground, but accumulates on the ground or flows via overland flow, interflow, channels, or pipes. ~~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 Management Facility” means any structure, drainage device, or configuration of the ground that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of maintaining or improving surface and/or groundwater quality or managing the quantity or rate of discharge of runoff to an approved destination.

“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 location above and~~ 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 ephemerally, with some degree of regularity.

“Water Feature” or “Connected Water Feature” means natural or human-made bodies of water (either perennial, intermittent, or ephemeral flow), that are part of or connected to the county stormwater system or are part of or connected to a private, shared stormwater system, including creeks, streams, ponds, rivers, lakes, related natural resource areas, drainage channels, and jurisdictional wetlands, and post-construction stormwater management facilities. Self-contained stormwater features on private properties that do not drain to a county stormwater system, natural stream, or to a privately-owned, shared stormwater system are not included in this definition for the purpose of this code.

“Wetland” means any parcel or portion of a parcel property that meets the state or federal definition

of wetland under ~~the jurisdiction of~~ state or federal laws. Depending upon the context, “wetland” is synonymous with jurisdictional wetlands.

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

9.90.15 - 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 within the Lane County MS4 area, namely the federal-Census-defined urbanized area surrounding the cities of Eugene and Springfield and 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 those cities.

1. The County Director will publish a map showing the Lane County MS4 area.

1.2. 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, grading, 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.

D-E. Above-ground cutting and pruning of vegetation; above-ground mechanical mastication or mulching; or the use of grazing animals, such as goats, to remove above-ground vegetation.

9.090.025 - Erosion Prohibited.

All new development, redevelopment, land-disturbing activities, and drainage projects must be conducted in a manner to prevent and/or control erosion, sedimentation, and other construction-related impacts to stormwater quality, in order 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, stormwater management facilities, 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, stormwater management facilities, and related natural resource areas are kept free of:
 - a. ~~-e~~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; and.
 - 3-b. Stormwater runoff containing construction-related contaminants resulting from activities such as, but not limited to, cleaning or washing of equipment, tools, or 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.~~
 - ~~7.6. 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, stormwater management facilities, or related natural resource areas.
 - ~~8.7.~~ 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.
 - ~~9.8.~~ At final stabilization stage, long-term erosion or sediment accumulation are ~~not permitted to occur~~ prevented from occurring.
- 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~~must 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~~may result in soil disturbance during the wet weather season ~~will, at a minimum, prepare for~~must accommodate 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~~the authority to waive any of the above outcomes or wet weather requirements.

9.090.040 – Erosion Prevention Permits.

A. Permit Required.

1. Except as otherwise provided by ~~Lane this~~ 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; or
 - b. Disturbs one quarter (¼) acre or more of land or involves the movement of ~~four~~two hundred (~~200~~400) cubic yards of soil or more; or
 - c. Disturbs five hundred (500) square feet or more of land or involves the movement of twenty (20) cubic yards or more of soil and either involves commercial, industrial, or multi-unit residential development or is located on a property that is zoned for commercial, industrial, or

multi-family activities: or

~~e.d. Disturbs five hundred (500) square feet or more of land or involves the movement of twenty (20) cubic yards or more of soil and is conducted on land within one (1) or more of the following sensitive areas: is conducted on land with one (1) or more of the following:~~

(1) ~~is located~~Land within the floodplain;

(2) ~~Contains~~Land containing 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)~~(3) ~~is~~Land located within fifty (50) feet of a water feature.

2. For purposes of LC 9.090.040A.1.c(34), 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, trails, 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. Routine landscape maintenance activities on developed properties necessary to maintain the

~~existing developed landscape and its existing function, including, but not limited to, home gardening and weed removal. Home gardening and landscaping maintenance activities, unless such activity takes place within fifty (50) feet of a water feature.~~

3. The planting of trees and other vegetation by hand-held tools.

2.4. Weed removal by digging with hand-held tools.

3.5. 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. Annual Permit. An Annual permit may be issued to a public agency, utility provider, or environmental improvement organization for multiple small-scale projects on one or more sites located within sensitive areas that involve minor recurring activities of a similar nature, including, but not limited to, utility service connections and extensions, the repair of utility and infrastructure facilities, and the minor use of equipment in natural habitat restoration projects.

a. A permit holder may only use the annual permit for one project at a time within a single site. Projects must be completed and the site must be stabilized per LC 9.090.030 before the annual permit may be used again on another project.

a.b. Annual permits may not be used to permit portions of larger projects that require a Tier 1 or Tier 2 permit.

b.c. An application for an Annual permit requires a written description of the types of land disturbances proposed, their locations, and how the outcomes described in LC 9.090.030.A will be met. Submittal of an erosion and sediment control plan is not required.

~~2. 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~~Annual permits will be established by the Director. Application fees must be paid when the application is submitted to the County.

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.

F. 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.

G. 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 the required erosion prevention permit for installation, conducted a site inspection if necessary, and issued ~~a required~~the 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.
- 5.6. Emergency development work on a property, including, but not limited to, an emergency onsite wastewater repair, may be performed without first obtaining an erosion prevention permit. If an erosion prevention permit is required, it must be applied for within three working days after the emergency repairs commence.

H. Permit Duration.

1. The following permit duration criteria apply to Tier 1 and Tier 2 permits:
 - a. Permit Period of Validity.
 - (1) An erosion prevention permit will be valid for one (1) year from the date of issuance.
 - (2) Applicants may request the renewal of the erosion prevention permit for an additional period of one (1) year. Construction must exhibit positive advancement toward completion. The permit may be renewed for additional periods of one (1) year during the course of construction.
 - 1.(3) 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.
 - b. Renewal/Extension.
 - (1) The responsible person must submit a permit renewal application form and fee at least thirty (30) days prior to expiration of the current permit.
 - (2) Renewal applications shall provide a description of the reason the renewal is needed, as well as any needed changes to the erosion and sediment control plan.

~~b.(3)~~ The Director will review the renewal request and inspect, as needed, the current status of erosion prevention at the site and may approve the renewal request if conditions are substantially consistent with the original erosion and sediment control plan.

c. 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.

2. The following permit duration criteria apply to Annual permits:

a. Permit Period Validity. An Annual permit will be issued for one (1) year.

~~2.b.~~ Extension. Annual permits may not be extended.

- I. 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 and 1200-C permit must be approved by the Oregon Department of Environmental Quality (DEQ). 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.
- 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. Enforcement Policy. The County will use the amount of enforcement necessary to achieve compliance. Where possible and as allowed by the County's MS4 Phase II permit, the County will rely upon education rather than enforcement. The Director may provide educational programs or other informational materials that will assist permittees in meeting the desired erosion prevention outcomes.

A.B. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.

B.C. 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.D. 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.

OPTION B: No Sensitive Areas.
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 (MS4) Phase II permit ~~and the Willamette River Mercury Total Maximum Daily Load.~~

9.90.10 – Definitions.

“Accumulation” means the deposit of mud, sand, soil, sediment, or construction -related 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 , as determined by the Director, those 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~~ Grading and electrical, plumbing, and mechanical permits-work may also be included in the common plan of development.

“Construction-Related Materials” means materials that are used or created in the process of construction activities and that may contain potential water quality pollutants, ~~that are used or created during construction activities~~ including, but not limited to, ~~off-site deposits of~~ sediments deposited 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, and grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, and 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 Permit" means, for the purpose of this code, a permit for planning, building, or onsite wastewater that may trigger, due to land disturbance, the requirement of an erosion prevention permit.

"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.

"Director" means the Director of the Lane County Department of Public Works or the Director's designee.

"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.

"Erosion Prevention Manual" means a compilation, adopted by the Director, containing guidelines, instructions, best management practices, and other information to assist persons to comply with erosion control requirements.

"Final Stabilization" means a state in which the Director determines that the following criteria have been satisfied:

- A. There is no reasonable potential for discharge of a significant amount of construction-related sediment or turbidity to surface waters;
- B. Construction materials and waste have been removed and disposed of properly. This includes any sediment that was being retained by temporary erosion and sediment controls;
- C. All temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements;
- D. All ground-disturbing activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased; and
- E. All disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures.
 - 1. Temporary or permanent stabilization measures are not required for areas that are intended to be left unvegetated or unstabilized following construction (such as dirt access roads, utility pole pads, areas being used for storage of vehicles, equipment, or materials); provided, that measures are in place to eliminate or minimize erosion.
 - 2. Final vegetative stabilization is accomplished by establishing 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 on all unpaved areas and areas not covered by permanent structures.

~~“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 a substances or chemicals that poses a health hazard or a physical hazard, or that harm the environment. risk to life forms and/or 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:

A. Depletion of the capacity of the County’s stormwater system;

B. Contamination of soils; or

C. Discharge of pollutants to the County’s stormwater system, private stormwater drainage systems, or related natural resource areas.

~~“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 as a result of 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~~ any activity that changes the physical conditions of landforms, vegetation, and/or hydrology, including, but not limited to, digging, clearing, grading, grubbing, excavating, filling, logging, and the ~~storing~~ storage of materials. Such disturbance may be either 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.

“Municipal Separate Storm Sewer System (MS4)” means, for the purpose of this code, a collection

and conveyance system that is owned, operated, or under the jurisdiction of Lane County for the sole purpose of collecting and conveying naturally occurring precipitation or stormwater runoff, including roads, ditches, channels, pipes, culverts, catchbasins, outfalls, and manholes. The stormwater sewer system is not a combined sewer system and does not include conveyance of any wastewater.

“Municipal Separate Storm Sewer System (MS4) Area” The Lane County MS4 area is located within the federal-Census-defined urbanized area surrounding the cities of Eugene and Springfield. This area includes portions of the cities’ urban growth boundaries (UGBs). Through intergovernmental agreements, the Cities enforce erosion prevention requirements within the UGBs. This code applies to those MS4 areas that are outside of the UGBs of those cities. The Director will publish a map showing the Lane County MS4 area.

“Outcomes” means the beneficial 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, as defined in LC 9.090.030.

“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. Contains elements that are expected to be ~~Will begin and be~~ completed at different times, and
- D. Is proposed for development by ~~the same~~ a single person, or by a single group of related persons.

“Private Way” means any street, road, alley, right-of-way, or easement that is intended or used for passage by vehicles, bicycles, or pedestrians, or for ingress and egress to private land or is intended to provide for ingress and egress to land that is not controlled by a city, the County, or the State not under the jurisdiction of a public body. 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 and not dedicated to the use of the public 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 which has been dedicated 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, an agent or contractor acting on behalf of a permit holder or property owner, or any other person who has been assigned responsibility for meeting the erosion prevention outcomes, and who will be responsible for any violation of this Erosion Prevention Code. ~~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 body of water that acts as a transitional area between terrestrial and aquatic ecosystems, and is distinguished by wet or moist soils and plants

~~adapted to growing conditions associated with periodically saturated soils, 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 those 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 rainwater runoff, snow melt runoff, surface runoff, and drainage, including the portion of precipitation that does not evaporate or naturally percolate into the ground, but accumulates on the ground or flows via overland flow, interflow, channels, or pipes. 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 Management Facility” means any structure, drainage device, or configuration of the ground that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of maintaining or improving surface and/or groundwater quality or managing the quantity or rate of discharge of runoff to an approved destination.

“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” or “Connected Water Feature” means natural or human-made bodies of water (either perennial, intermittent, or ephemeral flow); that are part of or connected to the county stormwater system or are part of or connected to a private, shared stormwater system, including creeks, streams, ponds, rivers, lakes, related natural resource areas, drainage channels, and jurisdictional wetlands, and post-construction stormwater management facilities. Self-contained stormwater features on private properties that do not drain to a county stormwater system or to a privately-owned, shared stormwater system are not included in this definition for the purpose of this code.

“Wetland” means any parcel or portion of a ~~parcel property~~ that meets the state or federal definition of wetland under ~~the jurisdiction of~~ state or federal laws. Depending upon the context, “wetland” is ~~s~~Synonymous with jurisdictional wetlands.

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

9.90.15 - 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 within the Lane County MS4 area, namely the federal-Census-defined urbanized area surrounding the cities of Eugene and Springfield and 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 those cities.
1. The Director will publish a map showing the Lane County MS4 area.
- 1.2. 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 any floodplain fill/removal permits grading required 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.
- ~~D-E.~~ Above-ground cutting and pruning of vegetation; above-ground mechanical mastication or mulching; or the use of grazing animals, such as goats, to remove above-ground vegetation.

9.090.025 - Erosion Prohibited.

All new development, redevelopment, land-disturbing activities, and drainage projects must be conducted in a manner to prevent and/or control erosion, sedimentation, and other construction-related impacts to stormwater quality, in order 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, stormwater management facilities, 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, stormwater management facilities, and related natural resource areas are kept free of:
 - a. ~~-e~~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; and-
 - ~~3.b.~~ Stormwater runoff containing construction-related contaminants resulting from activities such as, but not limited to, cleaning or washing of equipment, tools, or 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.~~
 - ~~7.6.~~ 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, stormwater management facilities, or related natural resource areas.
 - ~~8.7.~~ 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.
 - ~~9.8.~~ At final stabilization stage, long-term erosion or sediment accumulation are ~~not permitted to occur~~ prevented from occurring.
- 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~~ must 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~~ may result in soil disturbance during the wet weather season ~~will, at a minimum, prepare for~~ must accommodate 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~~ the authority to waive any of the above outcomes or wet weather requirements.

9.090.040 – Erosion Prevention Permits.

A. Permit Required.

1. Except as otherwise provided by ~~Lane this~~ 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 (¼) acre or more of land or involves the movement of ~~two~~four hundred (~~200~~400) cubic yards of soil or more; or
 - ~~c. Disturbs five hundred (500) square feet or more of land or involves the movement of twenty (20) cubic yards or more of soil and either involves commercial, industrial, or multi-unit residential development or is located on a property that is zoned for commercial, industrial, or multi-family activities. 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.~~

~~3.2.~~ Notwithstanding LC 9.090.045B.3, a separate erosion prevention permit will be required for each project covered by a common plan of development.

~~4.3.~~ 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.~~

~~G.B.~~ 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, trails, 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. Routine landscape maintenance activities on developed properties necessary to maintain the existing developed landscape and its existing function, including, but not limited to, home gardening and weed removal. Home gardening and landscaping maintenance activities, unless such activity takes place within fifty (50) feet of a water feature.~~

~~3. The planting of trees and other vegetation by hand-held tools.~~

~~2.4. Weed removal by digging with hand-held tools.~~

~~3.5.~~ 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.C.~~ 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.
- ~~2. 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.D.~~ Fee. Fees for erosion prevention Tier 1, and 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.E.~~ 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.F.~~ 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.G.~~ 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 the required erosion prevention permit for installation, conducted a site inspection if necessary, and issued ~~a required~~the 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.

5.6. Emergency development work on a property, including, but not limited to, an emergency onsite wastewater repair, may be performed without first obtaining an erosion prevention permit. If an erosion prevention permit is required, it must be applied for within three (3) working days after the emergency repairs commence.

1.H. 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. Renewal applications shall provide a description of the reason the renewal is needed, as well as any needed changes to the erosion and sediment control plan.

b.c. The Director will review the renewal request and inspect, as needed, the current status of erosion prevention at the site and may approve the renewal request if conditions are substantially consistent with the original erosion and sediment control plan.

2.3. 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.

1.I. 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 and 1200-C permit must be approved by the Oregon Department of Environmental Quality (DEQ).~~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.
- 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. Enforcement Policy. The County will use the amount of enforcement necessary to achieve compliance. Where possible and as allowed by the County's MS4 Phase II permit, the County will rely upon education rather than enforcement. The Director may provide educational programs or other informational materials that will assist permittees in meeting the desired erosion prevention outcomes.

A-B. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.

B-C. A person who violates any provision of this Erosion Prevention Code is subject to administrative

Lane Code

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.D.~~ 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 C

Amendments to Lane Code
Chapters 10, 11, & 16

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.

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

**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
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**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 23-08

Track-Changes Versions of Lane Manual Chapter 9 Update
Erosion Prevention Code

Exhibit D = Option A

Exhibit E = Option B

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 23-08-____ - ____

IN THE MATTER OF AMENDING LANE
MANUAL CHAPTER 9 TO ADD A
PROVISION FOR EROSION PREVENTION,
EFFECTIVE APRIL 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 April 1, 2024, by removing, substituting and adding the following sections:

REMOVE THESE SECTIONS

NONE

INSERT THESE SECTIONS

9.030 – 9.030.065

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 April 1, 2024.

ADOPTED this ____ day of December, 2023.

Pat Farr, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date _____

LANE COUNTY OFFICE OF LEGAL COUNSEL

**OPTION A: MS4 Area
Only, with Sensitive Areas.
No changes proposed.**

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.

Lane Manual
Chapter 9 Environment and Health
Erosion Prevention Update

Exhibit E
**OPTION B: Sensitive
Areas Removed**

Proposed Lane Manual updates:

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 Lane County Construction Erosion Prevention and Materials Management Manual~~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 Lane Code 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.

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- ~~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.~~

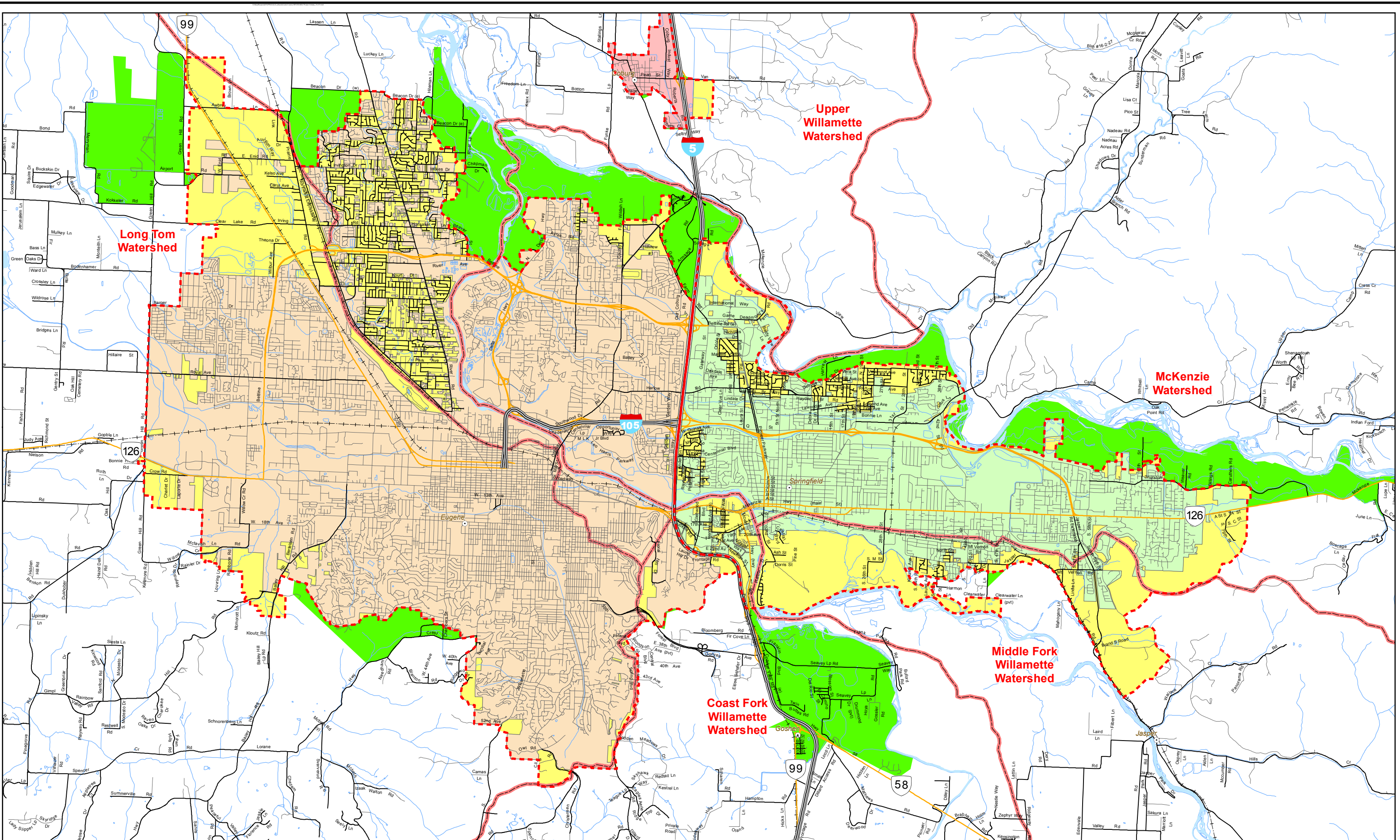
9.030.1159.030.110 - Intergovernmental Agreements

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.

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.