

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 23-06

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

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

Lane Code is amended effective May 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.

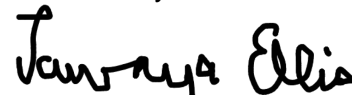
Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

These changes are effective May 1, 2024.

**ENACTED** this 2nd day of April, 2024



Laurie Trieger, Chair  
Lane County Board of Commissioners



Recording Secretary for this Meeting of the Board

## **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 the conditions of the County National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Phase II General Permit.

(Revised by Ordinance 2-04, 4.9.04)

### **9.090.010 – 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 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 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.

Grading and electrical, plumbing, and mechanical 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 water quality pollutants, including, but not limited to, sediments deposited by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood, paints, 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.

“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” 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.

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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.

“Hazardous Material” or “Toxic Material” means a substance or chemical that poses a 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. Highly erodible soil classifications are based upon Lane Manual 9.030.

“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 Storage” means the handling or storing of any construction-related materials in a manner that, 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; contamination of soils; or 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 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 storage of materials.

“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 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” means the stormwater management area that is under Lane County jurisdiction and is based upon the Department of Environmental Quality (DEQ) Municipal Separate Storm Sewer System (MS4) Phase II General Permit. The Director will publish a map showing the Lane County MS4 area.

“Outcomes” means the beneficial results of employing erosion prevention and construction site management practices, during both the construction period and the wet weather season, as defined in LC 9.090.030.

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“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 (1) 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 completed at different times, and
- D. Is proposed for development by 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 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.

“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.

“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.

“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.

“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, repair of recreation facilities (e.g., ball diamonds, play areas, fields), cleaning of stormwater facilities, and 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.

“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 “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.

“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. Visible or measurable erosion also includes earth slides, mud flows, earth sloughing, or other earth movement that leaves the property or impacts onsite protected areas.

“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. 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 property that meets the state or federal definition of wetland under 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 determined by the Director.

(Revised by Ordinance 2-10, 7.9.10)

### **9.090.015 - Applicability.**

- A. The provisions of this Erosion Prevention Code apply to all new development, redevelopment, land-disturbing activities, and drainage projects that occur on property within the Lane County Municipal Separate Storm Sewer MS4 area, surrounding the cities of Eugene and Springfield and outside the urban growth boundaries of those cities.
  - 1. The Director will publish a map showing the Lane County MS4 area.
  - 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, the development of associated private ways and parking areas, and any 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.
- 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. Construction-related pollution and debris, including mud, concrete washout, trash, and other contaminants resulting from construction activities including, but not limited to, vehicle

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movement; material storage; and the cleaning or washing of equipment, tools, and vehicles; and

- 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. Hazardous substances 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.
  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.
  8. At final stabilization stage, long-term erosion or sediment accumulation are 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 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 may result in soil disturbance during the wet weather season 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 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 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 a DEQ 1200-CA Stormwater General Discharge Permit and such permit has been obtained; or
  - b. Disturbs one-quarter (1/4) acre or more of land or involves the movement of four hundred (400) cubic yards of soil or more; or
  - c. Disturbs five thousand (5000) square feet or more of land or involves the movement of two hundred (200) cubic yards or more of soil and:
    - (1) Either involves commercial, industrial, or multi-family residential development or is located on a property that is zoned for commercial, industrial, or multi-family activities; or
    - (2) Is conducted on land with one (1) or more of the following:
      - (i) Contains highly erodible soils, or
      - (ii) Slopes of fifteen percent (15%) or greater.
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.
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.

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3. If an applicant chooses not to challenge the soil erodibility or slope 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.
  3. The planting of trees and other vegetation by hand-held tools.
  4. Weed removal by digging with hand-held tools.
- D. 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.
- E. Permit Classifications. The 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 or 1200-CA Stormwater General Discharge 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 9.090.040A.1.c and where a 1200-C or 1200-CA permit has not been required by DEQ. An application for a Tier 2 permit requires the submittal of an erosion and sediment control plan.
  3. Annual Permit.
    - a. This permit applies to a public agency, utility provider, or environmental improvement organization conducting activity that meets all of the following criteria:
      - (1) Multiple small-scale land-disturbing activities are proposed on one or more sites; and
      - (2) Each proposed land disturbance will not be a part of a larger activity that requires a Tier 1 or Tier 2 permit; and
      - (3) Each land disturbance is less than one-quarter (1/4) acre; and

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- (4) Each land disturbance is located on land that contains highly erodible soils and/or slopes of fifteen percent (15%) or greater; and
      - (5) Each proposed project involves 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.
    - b. 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 for another project on the same site.
    - c. An application for an annual permit requires the submittal of a written description of the types of land disturbances proposed, their locations, and how the outcomes described in LC 9.090.030 will be met. Submittal of an erosion and sediment control plan is not required.
  - F. Fee. Fees for erosion prevention Tier 1, Tier 2, and Annual permits will be established by the Director. Application fees must be paid when the application is submitted to the County.
  - G. 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.
  - H. Conditions of Approval. Every erosion prevention permit will include standard conditions and any special conditions determined to be necessary to satisfy the outcomes.
  - I. 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 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. 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.

J. 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.
    - (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.
    - (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.
  - b. Extension. Annual permits may not be extended.
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.

K. 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.**

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- 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 or 1200-CA permit must be approved by the Oregon Department of Environmental Quality (DEQ).
  - 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 stormwater management facilities and onsite wastewater treatment systems must be clearly delineated, marked, and protected, as needed.
- D. Availability of Plan. The permit holder will keep at the construction site a copy of the approved plan so that it may be reviewed by the County, DEQ, or other administrating entity, when on site.

### **9.090.050 – Maintenance.**

## Lane Code

- 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 to meet outcomes listed in LC 9.090.030.
- 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.**

## Lane Code

A permit applicant may appeal any of the following items within the time and in the manner prescribed by LC 5.025.035:

- 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.

### **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 General 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.
- B. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.
- 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.
- D. Whenever any regulated activity is being done contrary to and in violation of this Code or an erosion prevention permit, the Division Manager or their designee may order the activity stopped by notice in writing, posted on the premises, or served on the responsible person, who will immediately stop such work until authorized by the enforcement officer to proceed.

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**9.090 – EROSION PREVENTION**

**9.090.005 — Purpose. ~~Applicable Erosion Control Prevention Regulations.~~**

The purpose of this Erosion Prevention Code is to safeguard public health, safety, and welfare by protecting the quality of surface and subsurface waters for drinking water supply, recreation (such as fishing) and other beneficial uses through the application of best management practices (BMPs) for erosion prevention. This Code is intended to meet the conditions of the County National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Phase II General Permit.

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

~~A. The Eugene Erosion Prevention regulations as adopted by the Lane County Board of Commissioners as part of Ordinance No. 2-04.~~

~~B. Copies of the applicable erosion prevention regulations shall be on file at the Lane County Land Management Division.~~

(Revised by Ordinance 2-04, 4.9.04)

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

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



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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.

Grading and electrical, plumbing, and mechanical 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 water quality pollutants, including, but not limited to, sediments deposited by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood, paints, 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.

“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” 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;

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**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.**

**“Hazardous Material” or “Toxic Material” means a substance or chemical that poses a 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. Highly erodible soil classifications are based upon Lane Manual 9.030.**

**“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 Storage” means the handling or storing of any construction-related materials in a manner that, 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; contamination of soils; or 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 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 storage of materials.**

**“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.**

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**“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 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” means the stormwater management area that is under Lane County jurisdiction and is based upon the Department of Environmental Quality (DEQ) Municipal Separate Storm Sewer System (MS4) Phase II General Permit. The Director will publish a map showing the Lane County MS4 area.**

**“Outcomes” means the beneficial results of employing 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 (1) 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 completed at different times, and**
- D. Is proposed for development by 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 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.**

**“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.**

**“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.**

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**“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.

**“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.

**“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, repair of recreation facilities (e.g., ball diamonds, play areas, fields), cleaning of stormwater facilities, and 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.

**“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 **“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.

**“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. Visible or measurable erosion also includes earth slides, mud flows, earth sloughing, or other earth movement that leaves the property or impacts onsite protected areas.

**“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. 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 property that meets the state or federal definition of wetland under state or federal laws. Depending upon the context, “wetland” is synonymous with jurisdictional wetlands.

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

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

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

(Revised by Ordinance 2-10, 7.9.10)

**9.090.015 - Applicability.**

- A. The provisions of this Erosion Prevention Code apply to all new development, redevelopment, land-disturbing activities, and drainage projects that occur on property within the Lane County Municipal Separate Storm Sewer MS4 area, surrounding the cities of Eugene and Springfield and outside the urban growth boundaries of those cities.**
  - 1. The Director will publish a map showing the Lane County MS4 area.**
  - 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, the development of associated private ways and parking areas, and any 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.**

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- D. **Mining activities conducted under permits issued by the Oregon Department of Geology and Mineral Industries.**
- 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. **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**
    - 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.**

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6. **Hazardous substances 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.**
  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.**
  8. **At final stabilization stage, long-term erosion or sediment accumulation are 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 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 may result in soil disturbance during the wet weather season must accommodate wet weather conditions by:**
1. **Maintaining additional BMP materials on site in order to respond immediately to changing conditions.**
  2. **Gravelling 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 the authority to waive any of the above outcomes or wet weather requirements.**

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**9.090.040 – Erosion Prevention Permits.**

**A. Permit Required.**

1. Except as otherwise provided by 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 a DEQ 1200-CA Stormwater General Discharge Permit and such permit has been obtained; or
  - b. Disturbs one-quarter (1/4) acre or more of land or involves the movement of four hundred (400) cubic yards of soil or more; or
  - c. Disturbs five thousand (5000) square feet or more of land or involves the movement of two hundred (200) cubic yards or more of soil and:
    - (1) Either involves commercial, industrial, or multi-family residential development or is located on a property that is zoned for commercial, industrial, or multi-family activities; or
    - (2) Is conducted on land with one (1) or more of the following:
      - (i) Contains highly erodible soils, or
      - (ii) Slopes of fifteen percent (15%) or greater.
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.
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.
3. If an applicant chooses not to challenge the soil erodibility or slope 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



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**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.
  3. The planting of trees and other vegetation by hand-held tools.
  4. Weed removal by digging with hand-held tools.
- D. 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.**
- E. Permit Classifications. The 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 or 1200-CA Stormwater General Discharge 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 9.090.040A.1.c and where a 1200-C or 1200-CA permit has not been required by DEQ. An application for a Tier 2 permit requires the submittal of an erosion and sediment control plan.
  3. Annual Permit.
    - a. This permit applies to a public agency, utility provider, or environmental improvement organization conducting activity that meets all of the following criteria:
      - (1) Multiple small-scale land-disturbing activities are proposed on one or more sites; and
      - (2) Each proposed land disturbance will not be a part of a larger activity that requires a Tier 1 or Tier 2 permit; and
      - (3) Each land disturbance is less than one-quarter (1/4) acre; and
      - (4) Each land disturbance is located on land that contains highly erodible soils and/or slopes of fifteen percent (15%) or greater; and
      - (5) Each proposed project involves 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.

Lane Code

- b. **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 for another project on the same site.**
  - c. **An application for an annual permit requires the submittal of a written description of the types of land disturbances proposed, their locations, and how the outcomes described in LC 9.090.030 will be met. Submittal of an erosion and sediment control plan is not required.**
- F. **Fee. Fees for erosion prevention Tier 1, Tier 2, and Annual permits will be established by the Director. Application fees must be paid when the application is submitted to the County.**
- G. **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.**
- H. **Conditions of Approval. Every erosion prevention permit will include standard conditions and any special conditions determined to be necessary to satisfy the outcomes.**
- I. **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 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. **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.**
- J. **Permit Duration.**

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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.
    - (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.
    - (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.
  - b. Extension. Annual permits may not be extended.
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.
- K. 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.

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**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 or 1200-CA permit must be approved by the Oregon Department of Environmental Quality (DEQ).**
  - 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 stormwater management facilities and onsite wastewater treatment systems must be clearly delineated, marked, and protected, as needed.**

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- D. Availability of Plan. The permit holder will keep at the construction site a copy of the approved plan so that it may be reviewed by the County, DEQ, or other administrating entity, when on site.**

**9.090.050 – Maintenance.**

- A. The responsible person must maintain the erosion prevention facilities and BMPs contained in the approved erosion and sediment control plan to ensure continued effectiveness during any ground disturbing activity.**
- B. The responsible person must update the erosion and sediment control plan as site conditions change, or as needed to meet outcomes listed in LC 9.090.030.**
- 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**

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**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 any of the following items within the time and in the manner prescribed by LC 5.025.035:**

- 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.**

**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 General 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.**
- B. Violation of this Erosion Prevention Code is a Class A violation, as defined by ORS Chapter 153.**
- 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.**
- D. Whenever any regulated activity is being done contrary to and in violation of this Code or an erosion prevention permit, the Division Manager or their designee 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.**

**10.091 Compliance with Erosion Prevention Code**

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

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**10.091 Compliance with Erosion Prevention Code**

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



**11.016 Erosion Prevention.**

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

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**11.016 Erosion Prevention.**

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

**16.096 Compliance with Erosion Prevention Code.**

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

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**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.