

W.8.b.

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 2-04

IN THE MATTER OF AMENDING CHAPTER 9 OF
LANE CODE TO ADOPT EUGENE REGULATIONS
PERTAINING TO EROSION PREVENTION FOR
APPLICATION TO THE URBANIZABLE LANDS
WITHIN THE EUGENE URBAN GROWTH
BOUNDARY; AND ADOPTING A SEVERABILITY
CLAUSE (LC 9.945)

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

Section 1: The provisions of the Eugene Code as specified in Exhibit "A" are hereby adopted and incorporated herein by this reference for application on the urbanizable lands within the Eugene Urban Growth Boundary and shall not be codified into Lane Code.

Section 2: Chapter 9 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

REMOVE THESE SECTIONS

None

INSERT THESE SECTIONS

9.945

as located on page 9-37
(a total of 1 page)

Section 3: Said section is attached hereto and incorporated herein by reference. The purpose of this addition is to adopt Eugene regulations pertaining to erosion prevention for application to the urbanizable lands within the Eugene urban growth boundary; and adopting a severability clause (LC 9.945).

Section 4: 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 shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions hereof.

ENACTED this _____ day of _____ 2004.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 12-18-03 Lane County


OFFICE OF LEGAL COUNSEL

TABLE II**Crown Spacing - Trees Per Acre**

$$\frac{43,560 \text{ Sq. Ft./Acre}}{100 \text{ trees}} = 435.6 \text{ Sq. Ft./Tree (22"-Diameter Crown)}$$

Diameter Crown (in Feet)	Sq. Ft./ Tree	Trees/ Acre	(Closed Canopy)
10	78.75	553	
15	176.63	247	
20	314.00	139	
25	490.63	89	
30	706.50	62	
35	961.63	45	
40	1,256.00	35	

EXHIBIT "B" TO LC CHAPTER 9
(LC 9.935)

Page 3

(Revised by Ordinance No. 14-90D, Effective 11.21.90 [Sunset 11.30.91]; 16A-91, 11.20.91 [Sunset 6.1.93]; 4-93, 5.19.93 [Sunset 12.1.94]; 11-94, 11.22.94 [Sunset 12.1.95]; 3-96, 11.1.96)

EROSION PREVENTION**9.945 Applicable Erosion Control Prevention Regulations.**

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.

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

||At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted
 9.945 Lane Code

**LEGISLATIVE
 FORMAT
 9.945**

TABLE II

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EROSION PREVENTION

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Erosion Prevention

6.625 Erosion Prevention - Purpose. Sections 6.625 to 6.645, and the rules issued thereunder, are intended to restrict the discharge of sediments or other construction related materials, including hazardous substances as defined in section 6.340, into the city's stormwater system in order to:

- (a) Prevent or minimize, to the maximum extent practicable, negative impacts to adjacent properties, water quality, and related natural resources resulting from construction activities; and
- (b) Maintain the capacity of the city's stormwater system by minimizing sedimentation.

(Section 6.625 added by Ordinance No. 20067, enacted October 16, 1996, effective November 16, 1996.)

6.630 Erosion Prevention - Applicability and Compliance.

(1) Scope. The provisions of sections 6.625 to 6.645, and the rules issued thereunder, apply to all construction related activities that result in any one or all of the following:

- (a) Land disturbance, including, but not limited to clearing, grading, grubbing, logging, excavating, filling, and storing of materials;
- (b) Structural development, including, but not limited to buildings, bridges, roads, and other infrastructure;
- (c) Impervious surfaces, including, but not limited to parking lots, driveways, walkways, and patios; or
- (d) Dewatering.

Notwithstanding the foregoing, the following activities shall be exempt from the provisions of sections 6.625 to 6.645: (i) actions by a public utility, the city, or any other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; or (ii) actions by any other person when the city determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.

(2) Compliance. No person shall engage in any construction related activity covered by subsection (1) in a manner that can potentially impact water quality, except as allowed by this code. All persons shall implement erosion prevention measures designed to meet the outcomes established in administrative rules promulgated by the city manager. Failure to meet those outcomes shall subject the person to the same enforcement provisions as those applicable to a permit holder under section 6.640.

(Section 6.630 added by Ordinance No. 20067, enacted October 16, 1996, effective November 16, 1996.)

6.635 Erosion Prevention - Permits.

(1) Erosion Prevention Permit.

(a) Permit required. Except as otherwise provided in subsection (3) below, no person shall commence any construction related activity without first obtaining from the city one of the erosion prevention permits listed in subparagraph (b) if the construction related activity:

1. Disturbs one or more acres of land at any one time by one or more phases of development, and the disturbance is located on the same parcel of land or on contiguous parcels of land under the same ownership;
or
2. Is located in a sensitive area. The criteria for classifying sites, and the classification of such sites as sensitive areas shall be established in administrative rules issued by the city manager.

(b) Permit classifications. The city manager may issue all of the following types of permits, any of which will meet the requirements of subsection (a) of this section:

1. Individual permit. A property owner or easement holder of record may obtain a separate individual permit for each construction activity on the same parcel of land.
2. Umbrella permit. A property owner or easement holder of record may obtain an umbrella permit for multiple construction activities on the same parcel of land that are proposed in connection with a development, including utility work, private infrastructure, structures, and other site improvements.
3. Annual permit. An annual permit may be issued for minor recurring activities.

(c) Application. The application for an erosion prevention permit shall be accompanied by:

1. Fee. A fee established by the city manager pursuant to section 2.020 of this code in an amount sufficient to recover the city's administrative costs;

2. Construction site management plan for individual and umbrella permits. A construction site management plan prepared by a certified professional(s) designated by the manager in rules adopted hereunder. The construction site management plan need not be prepared by a certified professional if the development is one (1) single family dwelling or one (1) duplex dwelling. The construction site management plan shall be kept at the construction site and available for on-site inspection purposes. The construction site management plan shall identify: potential water quality impacts associated with the proposed construction activities; techniques and methods to be used to prevent and control erosion, sedimentation, and other pollutants associated with construction activity; and the location, design, and construction schedule for all erosion, sedimentation, and other construction site management control measures to be implemented and maintained; and

3. Work, scope and practices for annual permit. No construction site management plan shall be required for an annual permit. Instead, the applicant shall provide a description of the scope of work to be performed and the practices to be employed for meeting the requirements of sections 6.625 to 6.645 of this code. A copy of the annual permit shall be kept at the site and available for on-site inspection purposes.

(d) Review and Issuance. The application for the erosion prevention permit shall be reviewed by the city and approved, approved with conditions, or denied, based on criteria set forth in rules adopted by the city manager. The criteria to be adopted shall be designed to achieve the objectives listed in section 6.625. Issuance of an erosion prevention permit may be subject to conditions imposed by the city including, but not limited to, specific erosion and sedimentation prevention measures and schedules.

(e) Permit Duration. An erosion prevention permit shall remain in effect for the full period of the construction activity. The manager may extend the duration of the permit for a period of up to, but not to exceed, two years after completion of the construction activity if the manager determines the extension is necessary to ensure that the construction activity has stabilized in accordance with the outcomes identified in the administrative rules.

(2) Appeal. Within the time and in the manner prescribed in section 2.021 of this code, the applicant for a permit may appeal (a) the denial of a permit, (b) any conditions imposed on a permit, (c) the determination that the property is located in a sensitive area, or (d) an extension of the duration of a permit under section 6.635(1)(e).

(3) Waiver of Erosion Prevention Permit. Notwithstanding any other provisions of this section, the following activities shall not require an erosion prevention permit:

(a) Construction activities involving the disturbance of less than 500 square feet of land surface area, or which consist of the excavation and/or fill of less than 20 cubic yards of material;

(b) Issuance of permits and/or approvals for land divisions, interior improvements to an existing structure, or other approvals for which there is no physical disturbance to the surface of the land; and

(c) Annual landscape maintenance activities on fully developed properties, necessary to maintain the existing developed landscape.

(Section 6.635 added by Ordinance No. 20067, enacted October 16, 1996, effective November 16, 1996; and amended by Ordinance No. 20177, enacted November 8, 1999, effective December 8, 1999.)

6.640 Erosion Prevention - Enforcement.

(1) Enforcement Policy. The primary focus of sections 6.625 to 6.645 is to implement measures for preventing erosion and minimizing stormwater impact that will meet the outcomes established in administrative rules promulgated by the city manager, and the city will use the amount of enforcement necessary to achieve compliance. Where possible the city will rely on education rather than enforcement. The manager may provide educational programs or other informational materials that will assist permittees in meeting the desired erosion and sedimentation controls, and other construction site management practices outcomes.

(2) Inspections. The city may make periodic inspections to ensure compliance with this code, rules issued hereunder, or conditions imposed on an erosion prevention or other permit.

(3) Violations. Failure to comply with the provisions of this code, rules issued hereunder, the erosion prevention permits, or conditions imposed thereon, during the period that the permit(s) remains in effect may result in:

(a) The issuance of a stop work order or compliance order by the city;

(b) The issuance of a citation into municipal court for violation of this code; and/or

(c) The imposition of an administrative civil penalty pursuant to the provisions of section 2.018 of this code as authorized by section 6.995 of this code.

Failure to comply with any stop work or compliance order issued by the city shall constitute a separate violation. Each day a violation continues also shall constitute a separate violation.

(4) Appeal. Any person to whom an order is issued may appeal a stop work order or compliance order within the time and in the manner prescribed in section 2.021 of this code. Notwithstanding any other provision of this code, a stop work order or compliance order shall be effective upon issuance, and shall continue in effect during the pendency of any appeal.

(Section 6.640 added by Ordinance No. 20067, enacted October 16, 1996, effective November 16, 1996 amended by Ordinance No. 20169, enacted September 27, 1999, effective October 27, 1999; and Ordinance 20177, enacted November 8, 1999, effective December 8, 1999.)

6.645 Erosion Prevention - Rules. The city manager may adopt rules for implementation of sections 6.625 to 6.640, following the procedures in section 2.019 of this code. The rules may include, but need not be limited to:

- (a) The form and content of an erosion prevention permit;
- (b) Additional criteria for identifying "sensitive areas" within the city, and preparation of a map identifying sensitive areas;
- (c) The definition of a certified professional;
- (d) The definition of maximum extent practicable;
- (e) The form and minimum criteria to be included in a construction site management plan, including required construction site management practices;
- (f) Erosion prevention design standards; and
- (g) Criteria for violation of sections 6.625 to 6.640 of the Eugene Code, 1971.

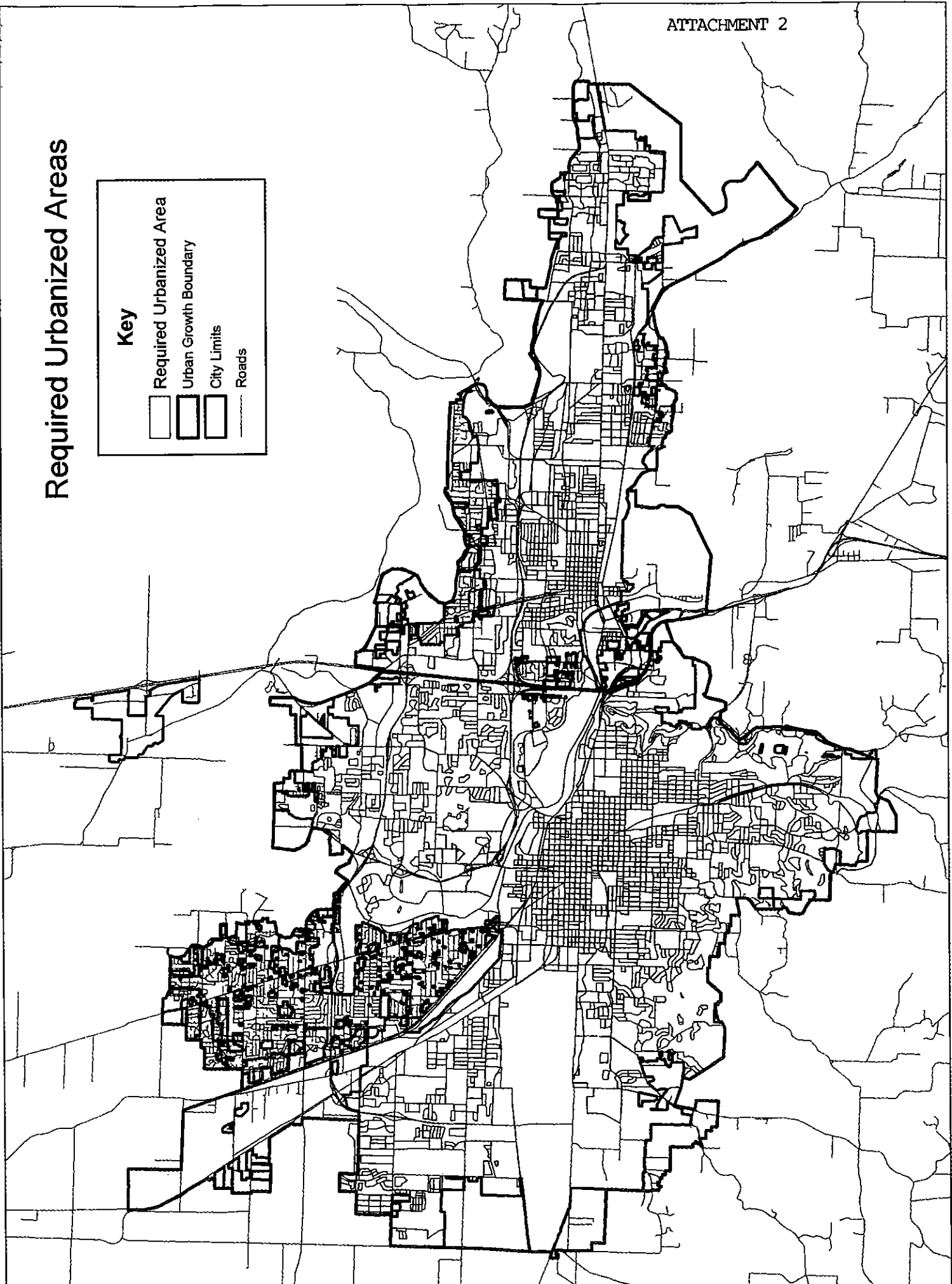
(Section 6.645 added by Ordinance No. 20067, enacted October 16, 1996, effective November 16, 1996.)

Required Urbanized Areas

ATTACHMENT 2

Key

- Required Urbanized Area
- Urban Growth Boundary
- City Limits
- Roads



IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO.) IN THE MATTER OF PRIORITIZING STRATEGIES FOR
03-3-12-4) COMPLYING WITH THE NATIONAL POLLUTANT
) DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II
) PROGRAM, AND DIRECTING STAFF TO SUBMIT A
) PERMIT APPLICATION TO THE OREGON DEPARTMENT
) OF ENVIRONMENTAL QUALITY (DEQ) FOR THE
) COUNTY'S SMALL MUNICIPAL STORM SEWER
) SYSTEMS (MS4).

WHEREAS, Lane County is a regulated Small Municipal Storm Sewer System (MS4) community as defined in the federal National Pollutant Discharge Elimination System (NPDES) Phase II program; and

WHEREAS, Phase II communities are required to submit a permit application to the Oregon Department of Environmental Quality (DEQ) by March of 2003; and

WHEREAS, the Board of Commissioners discussed the four available application options on December 17, 2002 and directed staff to focus it's time and efforts on further analysis of options 3 (General Permit) and 4 (Rely on Another Entity); and

WHEREAS, the Roads Advisory Committee (RAC) considered the resulting analysis at it's January 29, 2003 meeting, and recommended the Board select option 4 (Rely on Another Entity) as the primary compliance strategy. Option 3 (General Permit) to be a secondary strategy if the necessary agreements with the cities of Eugene and Springfield cannot be secured; and

WHEREAS, the Board of County Commissioners has discussed the RAC and staff recommendations and concurs with the proposed prioritization of compliance strategies; **NOW THEREFORE, BE IT**

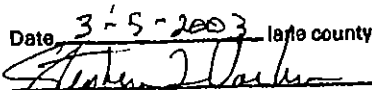
ORDERED, that staff submit the attached permit application (Exhibit A) to the Oregon DEQ in accordance with federal requirements; **AND BE IT FURTHER**


ORDERED, that staff enter into negotiations with the cities of Eugene and Springfield to create the necessary Intergovernmental Agreements (IGA's) for implementation of application option 4 (Rely on Another Entity), and that the County Administrator is authorized to sign the resulting IGA's; **AND BE IT FURTHER**

ORDERED, that staff return to the Board of Commissioners with information regarding potential non-Road Fund revenue sources for permit activities required outside of County rights-of-way.

DATED this 12th day of March 2003.

APPROVED AS TO FORM

Date 3-5-2003 lane county

OFFICE OF LEGAL COUNSEL


Chair
Lane County Board of Commissioners