



MARION COUNTY BOARD OF COMMISSIONERS


Board Session Agenda Review Form

Meeting date: September 28th, 2022

Department: Public Works Agenda Planning Date: Sept. 15th Time required: 5 min

☐ Audio/Visual aids

Contact: Matt Knudsen Phone: (503) 365-3187

Department Head Signature: 

TITLE

Ordinance to amend chapter 15.10 of the Marion County Code to update the Construction Erosion and Sediment Control Ordinance

Issue, Description & Background

2nd Reading
The National Pollutant Discharge Elimination System Municipal Separate Storm Sewer Phase II permit, which is issued by DEQ to Marion County, requires that Marion County implement updated aspects to the Construction Erosion and Sediment Control Program. These requirements are primarily the reduction of the threshold from 1 acre of disturbed area to 1/4 of an acre.

Financial Impacts:

There will not be a financial impact to Marion County, but the public will be impacted by an increase in permits requiring fees. The fees for this permit will support the cost of administering the permit.

Impacts to Department & External Agencies

Public Works will be impacted by an increase in Construction Erosion and Sediment Control permits issued, which will require staff time to review applications and plans as well as inspect the sites during construction.

Options for Consideration:

1. Adopt the ordinance amending chapter 15.10 of the Marion County Code
2. Modify the ordinance amending chapter 15.10 of the Marion County Code

Recommendation:

Staff recommends the adoption of the ordinance amending chapter 15.10 of the Marion County Code

List of attachments:

CESC Ordinance, Construction Erosion and Sediment Control Ordinance Presentation, MCSQ Treatment Engineering Standards Overview

Presenter:

Matt Knudsen & Max Hepburn

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Matt Knudsen - mknudsen@co.marion.or.us
Max Hepburn - mhepburn@co.marion.or.us

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

An ordinance amending chapter)
15.10 of the Marion County Code)

ORDINANCE NO. _____

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

The purpose of this ordinance is to amend chapter 15.10 of the Marion County Code to update the construction erosion and sediment control ordinance of Marion County to be consistent with the county's National Pollutant Discharge Elimination System permit.

SECTION 2. AMENDMENTS TO CHAPTER 15.10 OF THE MARION COUNTY CODE

1. Section 15.10.030 is amended to read as follows:

For the purposes of this chapter, the following words shall have the following meanings:

"Applicant" means the owner of real property or the owner's authorized agent. "Applicant" includes any person who would be required to obtain a Marion County permit or exemption approval, but who neglects or otherwise fails to do so.

"Authorized agent" means the developer, architect, contractor, engineer, builder, personal representative, or anyone designated by the owner to have control or supervision of a site involving construction site activity.

"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 on different schedules but under one plan.

"Construction site activity" means any ground disturbing activities at a location where a Marion County permit or exemption approval is required.

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

"Emergency" has the same meaning as found in ORS 401.025.

"Erosion" means the wearing away of the ground surface, or the movement, detachment or dislocation and transport of sediment including soil particles by the action of water or wind.

"Exemption approval" means an exemption from the requirement to obtain a building permit for an agricultural building.

"Final Stabilization" is determined by satisfying the following criteria: (1) there is no reasonable potential for discharge of a significant amount of construction related sediment or turbidity to surface waters; (2) 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; (3) all temporary erosion and sediment controls have been removed and disposed of properly, unless doing so conflicts with local requirements; (4) all ground disturbing activities have stopped and all stormwater discharges from construction activities that are authorized by this permit have ceased; (5) all disturbed or exposed areas of the site are covered by either final vegetative stabilization or permanent stabilization measures. However, 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.

"Ground disturbing activities" means any activity that exposes soil, including, but not limited to, construction, landscaping, removal of vegetation, stockpiling of soil or construction debris, grading, excavating, filling, clearing, trenching, drilling, transport or fill, or utility work, or working of land at a particular location.

"Public storm drainage and surface water system" means natural or manmade drainage courses for the conveyance of surface water.

"Sediment" means finely divided loose material that can be suspended and transported in water or air and may originate from disturbed soil, landscaping, or construction activities or materials.

"Storm event" means a storm event (as defined at 40 CFR 122.21(g)(7)(ii)) with greater than 0.1 inch of rainfall and at least 72 hours after the previously measurable storm event with greater than 0.1 inch of rainfall.

"Stormwater management area" means an area designated as a stormwater management area by the Department of Environmental Quality under Marion County jurisdiction.

2. Section 15.10.050 is amended to read as follows:

An erosion prevention and sediment control permit is required inside a stormwater management area if construction site activity(ies) will

expose at least one quarter of an acre (10,890 square feet) of soil, either in isolation or as part of a common plan of development.

3. Section 15.10.060 is amended to read as follows:

- A. An erosion prevention and sediment control plan is required for all erosion prevention and sediment control permits. The plan must be submitted by the applicant and approved by the director for issuance of the erosion prevention and sediment control permit, prior to the issuance of a Marion County permit or exemption approval and commencement of ground disturbing activities. The plan must contain protection techniques that will eliminate runoff siltation created from the construction activity both during and after construction. Site-specific considerations shall be incorporated.
- B. The erosion prevention and sediment control plan must include sizing criteria, performance criteria, design specifications, guidance on selection and placement of controls, and specifications for long term operation and maintenance, including appropriate inspection intervals and a self-inspection checklist.
- C. The county may require that the applicant design and construct a temporary drainage system that will ensure any off-site impacts caused by the construction site activity can be mitigated.
- D. The Marion County Department of Public Works may perform inspections to ensure compliance with this chapter at the discretion of the Director.
- E. The erosion prevention and sediment control plan is required to be kept on site and available for review by inspectors.
- F. The erosion prevention and sediment control plan must include clear steps for project phase completion, final stabilization, and permit closure.

4. Section 15.10.090 is amended to read as follows:

- A. The applicant shall maintain all erosion and sediment control measures in proper functioning order for the duration of the ground disturbing activities or until adequate ground cover has been established.
- B. The applicant shall inspect, maintain, adjust, repair, and replace erosion and sediment control measures as necessary within 24 hours following a storm event to ensure that the measures are functioning properly.
- C. During active ground disturbing activity, the applicant shall inspect and maintain erosion and sediment control measures weekly or within 24 hours of a storm event.

- D. The erosion prevention and sediment control plan must be maintained and updated as site conditions change, to prevent sediment or pollutant contaminated water from leaving the site.
- E. Permit finalization requires one of the following to be achieved:
 - a. Individual lots or phases of a qualifying common plan of development obtain individual erosion prevention and sediment control permit coverage prior to the issuance of Marion County permit(s) or exemption approval(s). The Director shall be notified of sale of individual lots or phases of a common plan of development no less than 14 calendar days prior to the date of closing. Until such time as an individual erosion prevention and sediment control permit is obtained, the lot or phases sold shall continue to be the responsibility of the overall development's erosion prevention and sediment control permit.
 - b. Final stabilization.

SECTION 3. EFFECTIVE DATE OF AMENDMENTS

The amendments to chapter 15.10 of the Marion County Code contained in section 2 above become effective on February 15, 2023.

SECTION 4. SEVERABILITY

Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction, that decision shall apply only to the specific section, or portion thereof, directly specified in the decision. All other sections or portions of this ordinance shall remain in full force and effect.

Adopted this _____ day of _____ 20____.

MARION COUNTY BOARD OF COMMISSIONERS

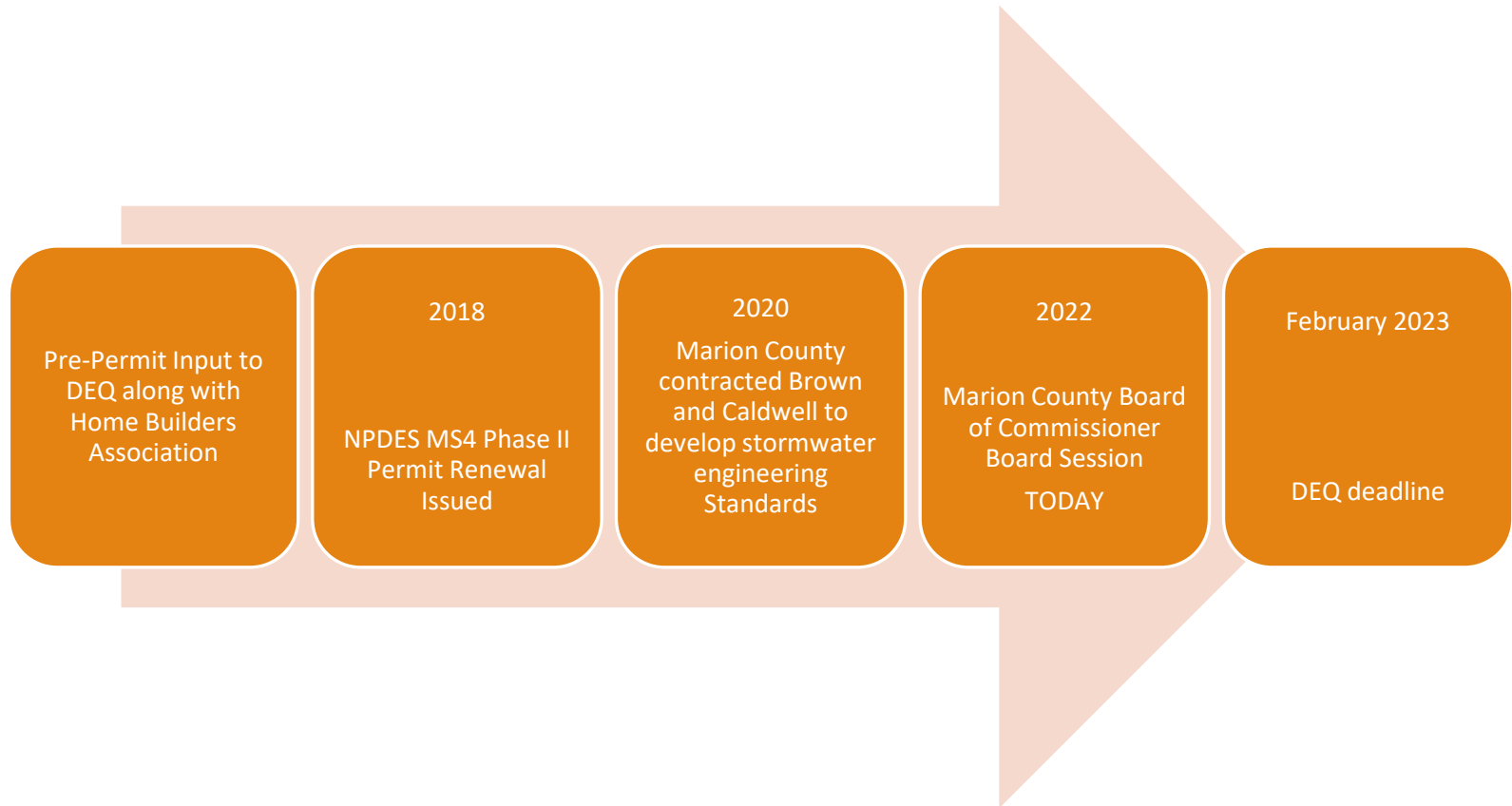
Chair

Recording Secretary



Proposed Amendment to Construction Erosion and Sediment Control Ordinance

Stormwater Engineering Standards Project

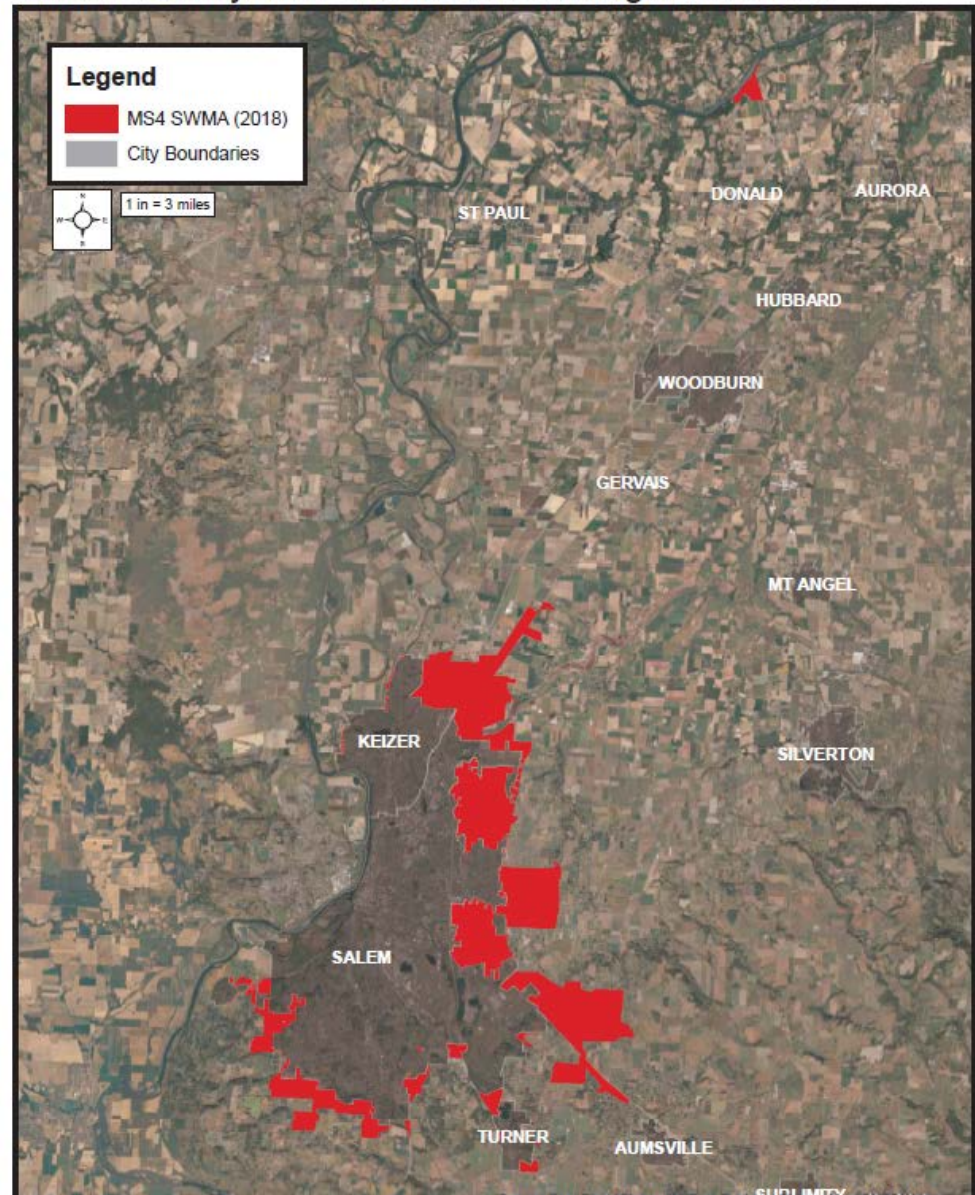


Outreach Process

- Internal Review with Marion County Staff (Code Enforcement, Legal Counsel, PW Departments)
- Marion Water Quality Advisory Committee Review (Over 5 meetings on the updated changes)
 - HBA, Watershed Council, Developer, Agricultural, and At Large Members
- Board of Commissioners – Works Sessions and Management Updates

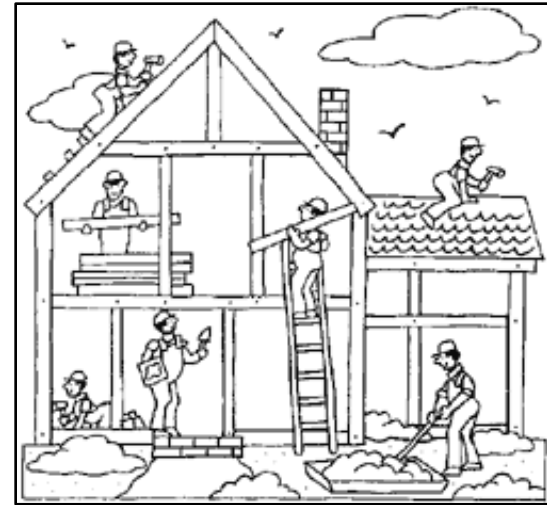
Stormwater Management Area

Marion County MS4 Stormwater Management Area



Ordinance Background

- Current code in 15.10
- DEQ Required Ordinance for Marion County Stormwater Management Area starting in 2010
- Reduction of Turbidity in surface water from construction sites
- Draft ordinance amendment prepared and reviewed by County Staff and the MWQAC



Major Changes to Construction Erosion Program

- Simplifies applicability
 - Remove the high-risk map
 - Removes “large development” permit
- Reduction of ground disturbance threshold requiring a permit from 1 acre to $\frac{1}{4}$ acre (=10,890 sq. ft.)
 - Note “large cities” are at 5,000 sq. ft.
- Maintains County 1200-CN program status for sites of 1 acre to less than 5 acres
- Establishes pathway to provide permit coverage of individually sold lots of a common plan of development
- For sites of $\frac{1}{4}$ acre to 1 acre estimated cost to implement may range from a few hundred to a few thousand dollars dependent on proposed controls and site conditions
 - Recent County projects range from \$3,000 to \$10,000

Permit Process

- Permit required at $\frac{1}{4}$ acre of ground disturbance, up to 5 acres
 - 5 acres or more requires a DEQ 1200-C
- Plan detailing erosion prevention and sediment controls
- Regular Applicant and County conducted inspections for proper installation, maintenance, and final stabilization of erosion and sediment controls.

Implementation

- Early Notification to builders (See implementation date)
- Start with education/warnings
- Easy implementation into already established development permit process



MARION COUNTY STORMWATER QUALITY TREATMENT ENGINEERING STANDARDS



OVERVIEW OF CHANGES

MAJOR CHANGES

The purpose in these adjustments is to remain MS4 Phase II Compliant (reissued: March 2021).

The intent is to boost clarity and interpretive ability in the requirements.

A one-year implementation period with internal/external stakeholders (HBA, MWQAC, BOC, etc.)

POST CONSTRUCTION Proposed Changes

- Taking an approach that prioritizes retention first, then detention.
- Establishing a Public/Private maintenance standardization.
- The Maintenance Warranty Period reestablished to 2-year (all controls).

CONSTRUCTION Proposed Changes

- Standardizing thresholds with the removal of "high-risk" areas.
- The threshold for disturbed ground adjusted from 1 acre to areas above 1/4 acre.
- Continue to be a 1200-CN qualified program to better serve our customers.