

**CITY OF SPRINGFIELD, OREGON**  
**ORDINANCE NO. 6473 (GENERAL)**

**AN ORDINANCE AMENDING AND REPEALING VARIOUS SECTIONS OF THE SPRINGFIELD MUNICIPAL CODE CHAPTER 8 REGARDING LAND DRAINAGE AND ALTERATION PERMITS, ADOPTING A SAVINGS CLAUSE, AND ADOPTING A SEVERABILITY CLAUSE**

**WHEREAS**, the City of Springfield is subject to the National Pollutant Discharge System (NPDES) Phase II permit regulations for Municipal Separate Storm Sewer Systems (MS4), administered by the Oregon Department of Environmental Quality (DEQ) via the MS4 Modified General Permit (MS4 Permit), effective March 1, 2019, as modified March 21, 2021;

**WHEREAS**, DEQ issued the City of Springfield MS4 Permit on June 1, 2021, and the permit expires February 28, 2024;

**WHEREAS**, the MS4 Permit requires the City of Springfield to address six minimum control measures, including Construction Site Runoff Control;

**WHEREAS**, the City of Springfield has existing regulations for construction site runoff control through the Springfield Municipal Code (SDC) chapter 8, Building Regulations, including overlapping regulations in section 8.300 Drainage and 8.400 Land Drainage and Alteration Permits;

**WHEREAS**, the City Council held a public hearing on these amendments on January 3, 2023; and

**WHEREAS**, the City Council finds it in the public interest to amend the Springfield Municipal Code chapter 8 to integrate sections 8.300 and 8.400 into one set of regulations for construction site runoff through the Land Drainage and Alteration Permit, consistent with the requirements of the MS4 Permit,

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF SPRINGFIELD ORDAINS AS FOLLOWS:

Section 1. Springfield Municipal Code sections 8.400, 8.404 through 8.406, 8.412 through 8.420, 8.306, 8.334, and 8.338 are hereby amended as provided in Exhibit A, attached hereto and incorporated by reference.

Section 2. Springfield Municipal Code sections 8.306, 8.320, 8.322, 8.324, 8.330, 8.334, and 8.338 are renumbered as provided in Exhibit A.

Section 3. Springfield Municipal Code sections 8.300 through 8.304, 8.308 through 8.318, 8.326, 8.238, and 8.336 are hereby repealed.

Section 4. Savings Clause. Except as specifically amended herein, the Springfield Municipal Code will continue in full force and effect. The prior code and regulations repealed or amended by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this ordinance.

Section 5. Severability Clause. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

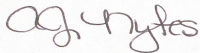
ADOPTED by the Common Council of the City of Springfield this 5th day of February, 2024, by a vote of 6 for and 0 against.

APPROVED by the Mayor of the City of Springfield this 5th day of February, 2024.



~~Mayor~~ Council President as AIC

ATTEST:



\_\_\_\_\_  
City Recorder

REVIEWED & APPROVED  
AS TO FORM

Kristina Kraaz  
DATE: 2/5/24  
SPRINGFIELD CITY ATTORNEY'S OFFICE

**AMENDMENTS TO THE SPRINGFIELD MUNICIPAL CODE  
FOR CONSTRUCTION SITE RUNOFF CONTROL  
LEGISLATIVE FORMAT**

This exhibit is provided in legislative format: deleted text is shown in red strike-through text, and added text is shown in red underlined text. Commentary is provided in a separate blue box; commentary is for legislative history purposes only and is not an adopted part of the code.

**LAND AND DRAINAGE ALTERATION PROGRAM**

**8.400 General.**

Sections 8.400 to ~~8.4208.436~~ establish regulations to:

- (1) Restrict the discharge of sediments and other construction related materials, including hazardous substances, into the public stormwater system in order to:
  - (a) Prevent or minimize, to the maximum extent practicable, negative impacts to adjacent properties, to water quality and to the City's Goal 5 natural resources inventory sites resulting from construction activities, and
  - (b) Maintain the capacity of the public stormwater system by minimizing sedimentation;
- (2) Control excavating, grading, and earthwork construction, including fills and embankments ~~regulated under section 8.300 et seq.~~ to safeguard the public health, safety and general welfare, and individuals and property against hazards resulting from uncontrolled grading and excavating practice;
- (3) Establish the administrative procedure for issuance of Land and Drainage Alteration Permits including: approvals; conditions of approval; denial; designation of a site as a sensitive area; extension of the duration of a Land and Drainage Alteration Permit;
- (4) Establish procedures for determining violations of this code; the provisions of an issued Land and Drainage Alteration Permit; enforcement, including a Notice of Violation; and
- (5) Establish the appeals process for Land and Drainage Alteration Permits.

**8.402 Intent.**

The goal of the Land and Drainage Alteration Program is the protection of: public and private property; the City's infrastructure; and all Goal 5 Natural Resources inventory of significant sites from potential adverse effects of construction activities. The exact provisions or conditions of a Land and Drainage Alteration Permit are based on the circumstances present at the development site; as a result, the program allows the applicant and the City the flexibility to design and apply the most effective erosion prevention measures on a case-by-case basis. This flexibility extends to modifications of these conditions after the permit has been issued if the City determines the measures are not achieving the intended results.

**8.404 Applicability.**

(1) These regulations shall apply to all construction related activities in both the City and its urban transition area that result in any of the following:

- (a) Land disturbance, including, but not limited to, clearing, grading, grubbing, tree felling, excavating, filling, and storing of materials;
- (b) Structural development, including, but not limited to, buildings, bridges, streets, and other infrastructure including utilities and sewers;
- (c) Impervious surfaces, including, but not limited to, parking lots, driveways, off-street bikeways and pedestrian trails, access ways, and patios; or
- (d) Dewatering.

(2) All persons in control of property or engaged in construction related activities shall prevent and/or control erosion, sedimentation, and other construction related impacts to stormwater quality in a manner designed to meet the outcomes specified in section 8.408. This obligation shall be implemented through one of the following actions:

- (a) The issuance of a Land and Drainage Alteration Permit in accordance with section 8.412; or
- (b) For all other construction activities not subject to the Land and Drainage Alteration Permit requirements, as determined by the director, compliance by property owners with the standards for preventing and controlling erosion, sedimentation, and other impacts associated with construction site management practices. The director will make information about these requirements and prevention measures available through a variety of techniques, including public outreach programs, handout materials, and other educational efforts to assist property owners in meeting this obligation.

(3) Regardless of subsection (1), the following activities shall be exempt from these regulations. ~~————The agency or public utility performing the work shall take reasonable steps to minimize sediment, dirt, debris, or other contaminants from entering the city stormwater system. The exemption in this subsection shall terminate at the time the emergency condition is alleviated, utility service is restored, or a street is reopened to traffic.:~~

- (a) Actions by the City, a public utility, or any other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public street to traffic; or
- (b) Actions by any other person when the director determines, and documents in writing, that these actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public street to traffic.

~~————The agency or public utility performing the work shall take reasonable steps to minimize sediment, dirt, debris, or other contaminants from entering the city stormwater system.~~

~~The exemption in this subsection shall terminate at the time the emergency condition is alleviated, utility service is restored, or a street is reopened to traffic.~~

### **8.406 Definitions.**

In addition to the definitions contained in Springfield Development Code, the applicable sections of the Engineering Design Standards and Procedures Manual, and applicable sections elsewhere in the SMC, as used in these regulations, the following words and phrases shall mean:

Annual Landscape Activities. Activities necessary to maintain the health and function of developed landscaped areas, including, but not limited to: tilling, sodding, mowing, aerating, pruning, and replacement of soil, gravel or addition of soil amendments.

Best Management Practices (BMPs). Physical, structural, and/or managerial practices employed to avoid or mitigate erosion, sedimentation, or contamination of the public stormwater system and related natural resources inventory sites, or to otherwise meet these regulations. All BMPs shall be in accordance with the City of Springfield's Engineering Design Standards and Procedures Manual (EDSPM).

Certified Professional. A person with a background or training in erosion prevention techniques 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; 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.

Construction Activity. An activity used in the process of developing, redeveloping, enhancing, or maintaining land, including, but not limited to: land disturbance, building construction, paving and surfacing, storage and disposal of construction related materials.

Construction Footprint. That area of a lot where disturbance to vegetation and land form is necessary for the construction of buildings, parking lots, walkways, landscaping, utilities, and for staging of construction equipment and other similar uses associated with construction activities.

Construction Related Materials. Potential water quality pollutants that are used or created during construction activities including, but not limited to: off-site deposits of sediments by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood; paints and thinners; packaging materials; insulation, plaster grout); hazardous substances (e.g., cleaning solvents; chemical additives; concrete curing compounds; acids; paints, thinners); pavement saw-cutting effluent; and concrete washout.

Designated Buffer. An area that separates a significant natural resources site, including a wetland or water feature, from a conflicting use; and any conservation zone or protected area established during the development review and approval process that is designed to protect significant natural resources sites or drainage ways.

Development Site. Property under common ownership or control, either undivided or consisting of one or more contiguous lots. Property under common ownership that is bisected by a public street or alley shall be considered one development site unless the land was legally divided.

Dewatering. The removal and disposal of surface water or groundwater for purposes of preparing a site for construction or facilitating construction.

Directly Drains. The conveyance and discharge of stormwater runoff, either on the surface or by an open channel or pipe, into a water feature that is located on or adjacent to the lot for which construction activities are planned, or onto/into its designated buffer area.

~~Director of Development and Public Works. The director of the Community Development Division within the Development and Public Works Department or their designee, or other official as designated by the Springfield City Manager~~The director of development and public works of Springfield, Oregon, or designee hereinafter referred to as director.

Disturbed Area. A lot or a portion of a lot where the vegetation, landform, or topography is altered due to tree felling, clearing, grubbing, grading, paving, stock piling, or building.

Emergency Condition. An immediate danger to life, property, or the environment due to circumstances beyond the control of the property owner, including, but not limited to, natural and human-caused disasters including, but not limited to, fires, floods, slides, earthquakes, sinkholes, and tree blow-down.

Enforcement Officer. The person designated by the director to enforce the provisions of these regulations.

Erosion Prevention. Measures to be taken for preventing and/or minimizing sedimentation and negative impacts to water quality in the public stormwater system and natural resource inventory sites due to erosive impacts on exposed soil from water and wind forces. Erosion prevention shall also include measures taken to prevent and/or minimize potential impacts to the public stormwater system and natural resources inventory sites associated with construction activities including handling and storage of construction related materials and disposal of building material wastes.

Highly Erodible Soils. Soils classified as having an erodibility index of 8 or larger by the Natural Resources Conservation Service, formerly the Soil Conservation Service.

Impacted Property. Property in proximity to a disturbed site, and subject to erosion, sedimentation, or construction material impacts resulting from the activity.

Improper Disposal. The disposal of any construction related material in a manner that causes, or has the potential to cause, the discharge of pollutants to the public stormwater system or natural resources inventory sites, the depletion of the capacity of the public stormwater system, or the contamination of soils.

Improper Storage. Handling or storing of any construction related materials in a manner that causes or has the potential to cause the discharge of pollutants to the public stormwater system or natural resources inventory sites, the depletion of the capacity of the public stormwater system, or the contamination of soils.

Jurisdictional Wetlands. Any lot, parcel or portion of a lot which meets the state or federal definition of wetlands under the jurisdiction of state or federal laws and also all significant wetlands identified on the City's local wetland inventory (see also Wetlands).

Land and Drainage Alteration Permit. A permit required for work that is subject to the rules and regulations set forth in ~~sections 8.300 to 8.338~~ and sections 8.400 to ~~8.4368.420~~, also referred to as a "grading permit" or "permit."

Land and Drainage Alteration Plan. Information including, but not limited to, a set of maps, data, drawings, and a narrative that describes expected runoff from new construction sites and establishes measures to be taken for preventing erosion, sediments, and other pollutants from construction related activities.

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

Lot. The word "lot" includes the words "parcel" or "tract of land."

Maximum Extent Practicable. The greatest degree of pollutant reduction achievable through the application of technically feasible, cost effective best management practices, processes, siting criteria, operating methods, or other alternatives approved by the director.

Minor Recurring Activities. Repetitive construction or maintenance activities that are performed at different sites as part of an overall work plan or program when no individual disturbance exceeds more than 500 square feet of land area and 50 cubic yards of fill or excavated material.

Natural Resources Inventory Sites. Areas on the City's adopted Goal 5 Natural Resources Inventory Maps and located within or adjacent to the public stormwater system, including, but not limited to, waterways, riparian areas shown on the Water Quality Limited Watercourses Map on file in the development and public works department, wetlands, and conservation zones or easements, which due to their location, topography, vegetation, or other factors provide one or more of the following stormwater functions: flood control, habitat, bank stabilization, and water quality treatment including pollutant removal, shading and temperature stabilization.

~~Notice of Violation (NOV). A written notice, specifying the violation and required compliance measures.~~

Permit Holder. The property owner or an agent hired by the property owner who has obtained a Land and Drainage Alteration Permit.

Person. 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.

Public Stormwater System. Those stormwater facilities located on public property, public rights-of-way, public utility easements and/or any stormwater facility the City is contractually or legally obligated to operate, maintain, or protect, including, but not limited to:

- (a) An open drainage way, headwater stream, creek, wetland, spring, or pond, including those not maintained by the City which drain onto city-owned property or into city-maintained facilities;
- (b) A pipe or sewer and its related appurtenances that carry stormwater and have been designed and constructed expressly for use by the general public and accepted by the director;
- (c) Streets, curbs and gutters and other surfaces in the public way which are designed to carry stormwater, roadside drainage ditches along unimproved streets; and

(d) Flood control and stormwater quality facilities (levees, dikes, overflow channels, swales, biofiltration facilities, infiltration facilities, detention basins, retention basins, dams, pump stations, groundwater recharging basins, sediment traps, wetlands, etc.) that have been designed and constructed expressly for use by the general public and accepted by the director.

Responsible Person or Responsible Party. A property owner, Land and Drainage Alteration Permit holder, or their agent or contractor, or other person who is responsible for meeting the outcomes, or responsible for violation of these regulations.

Routine Maintenance. The activities and practices necessary to maintain the operating capacity, functional integrity, or aesthetics of a site 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 streets.

Secondary Containment. On-site erosion prevention measures that include both a preventative measure (e.g., soil coverage, vegetative buffer) and a control measure (e.g., sediment fence, mulch berm, straw bales).

Sedimentation. The deposit of mud, sand, soil, sediment or construction materials exceeding one-half cubic foot in volume for every 1,000 square feet of lot size onto adjacent properties, into the public stormwater system, onto natural resources inventory sites located on-site, into public rights-of-way or private streets, and/or into any private stormwater system that discharges into a city stormwater system located off-site by dropping, discharging, directly depositing, or resulting from the action of erosion.

Sensitive Area. Sites that meet the criteria contained in section 8.410(1).

Stabilization. The completion of all soil disturbance activities at the site and the establishment of a permanent vegetative cover, or equivalent permanent stabilization measures including, but not limited to, riprap, gabions, geotextiles, or bioengineering methods that will prevent erosion.

Untreated Runoff. Stormwater runoff due to construction activities that has not been filtered, screened, settled, or otherwise treated for the removal of pollutants, prior to discharge into the public stormwater system, designated buffers, or natural resources inventory sites.

Vegetative Buffer. A strip of protected land not less than 25 feet in width separating ground disturbed by construction activity from a water feature, natural resources inventory site, or a property line, whichever is nearest, containing vegetation at least one inch in height that covers at least 80 percent of the buffer area. The buffer area shall be on the site covered by the Land and Drainage Alteration Permit.

Visible or Measurable Erosion. Evidence of concentrated flows of water over bare soils, turbid or sediment laden flows, or evidence of on-site erosion including rivulets on bare soil slopes where the flow of water is not filtered or captured on the site using the techniques recommended in the City's Design Manual or an approved Land and Drainage Alteration Plan, or comparable techniques; and, earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.

Water Features. Permanent or intermittent bodies of water, including creeks, streams, ponds, rivers, lakes, natural resources inventory sites, drainage channels and jurisdictional wetlands.



Wetlands. Any lot or portion of a lot which meets the state or federal definition of wetlands that is under the jurisdiction of state or federal laws and also all wetlands identified on the city's Local Wetland Inventory.

Wet Weather Season. October 1 through April 30, unless otherwise designated by the director.

#### **8.408 Outcomes.**

(1) All persons conducting construction activities specified in section 8.404(1) shall employ, to the maximum extent practicable, erosion prevention and construction site management practices which will achieve during both the construction period and wet weather season the following outcomes:

(a) Adjacent properties, water features, and natural resources inventory sites are kept free of deposits or discharges of soil, sediment or construction-related material from the site except those that would occur through natural processes from an undisturbed site.

(b) Vegetation in water features, natural resources inventory sites, 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.

(c) Public rights-of-way, the public stormwater system and natural resources inventory sites, private streets and private stormwater drainage systems that discharge to the public stormwater system are kept free of mud, soil, hazardous materials, concrete washout, trash, or other similar construction-related material. Direct deposit, dropping, dumping, erosion, tracking, or other discharge by construction vehicles of materials shall not occur in excess of those that occur through natural processes from an undisturbed site. Any discharges that occur shall be prevented from entering water features or the public stormwater system and removed not later than the end of the day in which the discharge occurred, or as directed by the director. During the wet weather season all other work shall cease until such time the discharge has been corrected.

(d) Soils and stockpile areas shall not be exposed to precipitation or stormwater runoff without the provision of secondary containment, perimeter controls, and other approved BMPs.

(e) Earth slides, mudflows, earth sloughing, or other earth movement that has the potential to leave the property shall not occur in excess of those that occur through natural processes on an undisturbed site.

(f) No discharge into the public stormwater system or natural resources inventory sites of construction related contaminants resulting from activities including, but not limited to, cleaning or washing of equipment, tools, or vehicles, shall occur.

(g) No hazardous substances, including paints, thinners, saw cutting slurry, fuels and other chemicals shall be released onto the site, onto adjacent properties, or into water features, the public stormwater system, or natural resources inventory sites.

(h) Maintain, on the site, all materials and supplies to implement the Land and Drainage Alteration Plan.

(2) When designing and implementing BMPs to meet the above outcomes, the applicant shall consider the seasonal variation of rainfall, temperature, and other climatic factors relative to the timing of land disturbance activities. All construction activity that will result in soil disturbance during the wet weather season shall, at a minimum, implement and maintain the following BMPs on-site:

- (a) Construction site entrances shall be graveled with crushed rock of sufficient size and grading as necessary to prevent any off-site tracking.
- (b) All stormwater facilities, water features, and natural resources inventory sites shall be protected.
- (c) All exposed soil and stockpile areas shall be covered.
- (d) Sediment, soil, or construction related material shall be removed immediately from the right-of-way, adjacent property, and the public stormwater system, including water features and natural resources inventory sites.

(3) No Land and Drainage Alteration Permit or other approval issued in accordance with these regulations shall be considered to authorize any violation of the above outcomes or wet weather requirements.

#### **8.410 Designation of Sensitive Areas.**

- (1) The City Manager shall publish, and from time to time maintain a map which shows:
  - (a) All parcels where the slope of the lot is greater than 15 percent and/or is subject to the City's Hillside Development Overlay district;
  - (b) All drainage ways or swales;
  - (c) All wetlands;
  - (d) All floodways or floodplains.

The areas depicted on such map, and all parcels adjacent to drainage ways or swales, shall be sensitive areas for the purpose of this article.

(2) An applicant may request an exception to the sensitive area requirement by submission of actual field or site information that demonstrates that the proposed work area will not adversely impact the relevant inventoried natural resource.

(3) An applicant who disagrees with the director's final determination about the designation of a sensitive area may appeal that decision to the City Manager or designee.

#### **8.412 Land and Drainage Alteration Permits.**

**Commentary:** Subsection (1)(c) is added to comply with new requirements in the MS4 Permit. Under the MS4 Permit Schedule A.3.d.ii, the City is required to implement construction site runoff control (accomplished through the LDAP permit) for all construction project sites that result in a land disturbance of 7,000 square feet or more. Conforming changes are proposed to (2)(a). The proposed code retains the permit requirement for sites disturbing an acre or more, as required by MS4 Permit, Schedule A section 3(d)(v).

Additionally, the changes to subsections (1) and (2) clarify that an LDAP is required for any cut and fill for inhabited structures. Non-habitable structures that are less 200 square feet (the trigger for building permit review) would not require LDAP review. Other existing thresholds for LDAP review are not proposed to change.

(1) Land and Drainage Alteration Permit Required. Unless otherwise provided in these regulations ~~and section 8.300 et seq.~~, no person shall commence any construction related activity without first obtaining from the City a Land and Drainage Alteration Permit, if the proposed construction related activity:

(a) Exceeds 50 cubic yards or more of material on any one lot and/or adversely affects drainage from or onto adjoining properties;

(b) Disturbs 500 square feet located in a sensitive area as specified in section 8.410;

(c) Disturbs 7000 square feet on any one lot or across contiguous lots under the same ownership;

(ed) 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 lot or on contiguous lots under the same ownership; ~~or-~~

(e) Results in any amount of cut or fill for the placement of an inhabited structure.

(2) Waiver of Land and Drainage Alteration Permit. Regardless of any other provisions of this section, the following activities shall not require a Land and Drainage Alteration Permit; however, under no circumstances shall this waiver be construed to mean that these activities are exempt from any of the Land And Drainage Alteration Program requirements of ~~the SM~~this code and these regulations other than the requirement to obtain a Land and Drainage Alteration Permit. The following activities shall be subject to other provisions, including, but not limited to, the outcome requirements specified in section 8.408:

(a) Construction activities involving the disturbance of less than 500 square feet of land surface area in a sensitive area, ~~or activities~~ which consist of the excavation and fill of less than 50 cubic yards of material or less than 7000 square feet in area, construction activities associated with building a nonhabitable one-story detached accessory structure such as a shed or garage~~or excavation or fill not intended to support a structure;~~

(b) The issuance of Land and Drainage Alteration Permits and/or approvals for interior improvements to an existing structure, or other approvals for which there is no physical disturbance to the surface of the land;

(c) Construction of external additions to existing single unit dwellings and duplexes, provided the area and volume of excavation and/or fill does not exceed the disturbance limits specified in section 8.412(1); and

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

(3) Land and Drainage Alteration Permit Classifications.

(a) Type I Land and Drainage Alteration Permit. This permit applies to a property owner or agent that obtains a permit for construction that is located within a sensitive area or is conducting commercial construction activity;

(b) Type II Land and Drainage Alteration Permit. This permit applies to a property owner or agent that obtains a permit for residential construction of a single unit or a duplex and is not located within a sensitive area;

~~(c) Pre-Approval Land and Drainage Alteration Permit. This permit may be issued prior to preliminary site plan review approval or tentative partition or subdivision approval and shall comply with section 8.318(7) of the Springfield Municipal Code.~~

(4) Application. ~~In addition to the payment of any required fees, an~~ application for a Land Alteration and Drainage permit must be submitted by the property owner or a person who has written authorization from the property owner to make the application, on the application form prescribed by the Director and complete with all information required on said form or otherwise specified in the provisions of this code. ~~shall include a signed application form and, in~~ In the case of a Type I Permit, the application must include a completed Land and Drainage Alteration Plan, prepared in accordance with subsection (6) of this section, and such other information as the City may require to act upon the application.

(5) Interdependent Land and Drainage Alteration Permit Processing. The application and processing of other city permits, including, but not limited to, Encroachment Permits, Tree Felling Permits, Foundation and Building Permits, are interdependent with the Land and Drainage Alteration Permit process. The development and public works director shall not issue any of these other permits except as follows:

(a) Until the director has conducted a site inspection, and approved a required Land and Drainage Alteration Permit, or has determined a permit is not required; or

(b) If the property owner or applicant is in violation of a Land and Drainage Alteration Permit, or any conditions of approval. Regardless of the requirements in this subsection, the director may issue Land and Drainage Alteration Permits for construction of public improvement projects in accordance with provisions of ~~the SMC~~this code prior to the approval of the Land and Drainage Alteration Permit. No construction activities shall begin on the public improvements until the director approves the implemented erosion and sediment control measures.

**Commentary:** SMC 8.412(6) meets the requirement in the MS4 Permit Schedule A.3.d.iv.A-B and A.3.d.v, requiring site-specific erosion and sediment control plan prior to construction or land disturbance, per a template provided by the City, which must include consideration of the potential water quality impacts. Subsection (6) also includes provisions from the Soils and Geology Report incorporated from SMC 8.314.

(6) Required Plans and Reports.-

(a) The Land and Drainage Alteration Plan. A Land and Drainage Alteration Plan shall be prepared by a certified professional and shall describe the techniques and methods to be used to achieve the required outcomes including specific BMPs for wet weather conditions, describe conditions before and after development, and the proposed methods to prevent and control water quality impacts during and after construction. The professional shall certify that implementation of the Plan ensures compliance with section 8.408(1). The director shall review the Plan prior to issuance of a Land and Drainage Alteration Permit and may monitor the development thereafter for continued compliance. The Land and Drainage Alteration Plan shall meet the minimum submittal requirements as listed on the City's application materials approved by the director.

(b) Soils and Geology Report. A Soils and Geology report shall be prepared by a licensed engineer. The director may require that the engineer consult with a registered geologist or registered certified specialty geologist in preparation of the Soils and Geology Report. The Soils and Geology Report may be waived when a preliminary report prepared by a licensed engineer demonstrates that the soils quality of the proposed development area does not require further soils and geology analysis. When not waived under this section, the Soils and Geology report must include:

- (i) A description of the surface and subsurface drainage facilities necessary to secure stability of native soil or compacted fill;
- (ii) The location of areas within the boundaries of the development which can justifiably and safely be used for building sites, with accompanying diagram;
- (iii) Guidelines to be used to adequately and properly develop and maintain the development area, such as the limits upon the height of cuts and fills and steepness of slopes, recommended erosion control measures, retaining wall locations, and any necessary corrective measures;
- (iv) An analysis of areas immediately adjacent to the proposed development which, after land and drainage alteration, might have an adverse effect upon the proposed development or might be adversely affected by the alteration;
- (v) Requirements for excavations and fills for any building or structure, including any requirements under the state building codes; and
- (+)(vi) The presence of critically expansive soils or other soil problems which, if not corrected, would lead to structural defects. If the Soils and Geology Report indicates any such areas, the report must address each lot or areas with said soil conditions and identify corrective action that is likely to prevent structural damage to the proposed structures.

Commentary: Subsection (7) meets the requirement in Schedule A.3.d.iv.D for the required plans to be kept on site and available for inspection by relevant officials, such as the City or the Department of Environmental Quality. Subsection (8) includes language from 8.336 regarding site inspections and rights of entry, with revisions for clarity and to align with constitutional requirements.

(7) Availability. The approved Land and Drainage Alteration Plan and Soils and Geology Report, where required, shall be kept at the construction site and be available during on-site inspections.

Commentary: Edits to this section are intended to align with the Development Code Update project that was adopted in 2022. This section and the criteria in 8.416 also help meet the requirements in MS4 Permit Schedule A.3.d.iv-v for review and approval of erosion and sediment control plans.

### **8.414 Review Criteria and Approval.**

(1) Review Criteria. The director shall review the Land and Drainage Alteration Permit application, including the Land and Drainage Alteration Plan, and other documents as may be submitted, and the report or recommendation of the site inspector following the site inspection, prior to issuing the permit. The Director must and approve, approve with special conditions, or deny the permit application as follows:

(a) Approval. The Director must approve and issue the permit if the Director finds that the construction related activities as proposed in the application comply with all applicable requirements of this code and with the layout of any approved or conditionally approved development permit under the Springfield Development Code, including a minimum development standards (MDS) permit, preliminary site plan review, or tentative land division. The Director may approve and issue a Land and Drainage Alteration Permit in absence of an approved development permit only if the Director finds that the Land and Drainage Alteration Permit complies with the criteria in section 8.416.

(b) Conditional Approval or Denial. The Director must deny the permit application if the director finds that the construction related activities as proposed in the permit will result in sedimentation, visible or measurable erosion, or will otherwise violate the conditions specified in section 8.408 or any other applicable provision of this code. Provided, however, the Director may approve the permit application and issue the permit with special conditions necessary to meet the requirements of this code, if the Director determines that such conditions are reasonably feasible. ~~then the director shall either deny the permit, or approve the permit with special conditions.~~

(2) Effective Date. ~~Permit approval shall not~~ A Land and Drainage Alteration Permit is ~~be effective until only upon approval or conditional approval by the Director, following a site inspection has occurred and the permit is endorsed with the approval of and endorsement of the permit by the site inspector, which may include additional conditions imposed as a result of the inspection.~~

(1)(3) Appeal. An applicant who is denied a ~~permit~~ Land and Drainage Alteration Permit may appeal to the City Manager or designee by providing written notice of the appeal within 30 calendar days of receiving the permit denial.

Commentary: The existing code regarding Conditions has been integrated into SMC 8.414 above. Section 8.416 is proposed to be replaced with text being moved from 8.318(7) for pre-development LDAP review (with clarifying edits).

### **8.416 ~~Conditions~~Pre-Approval Permit Criteria.**

~~Every Land and Drainage Alteration Permit shall include as conditions the outcomes set forth in section 8.408, and any special conditions imposed as a result of the Land and Drainage Alteration Permit review and/or the site inspection.~~

The requirements of this section apply to a permit application submitted in advance of development approval under the Springfield Development Code:

(1) The Permit must not result in the need to extend public storm systems to the site or to alter, reconstruct, or redirect any existing public or private stormwater facility.

(2) The Permit application must contain the following information:

(a) The name, location, dimensions, direction of flow and top of bank of all adjacent watercourses including those that are shown on the City's Water Quality Limited Watercourse Map;

(b) The 100-year floodplain and floodway boundaries and areas of special flood hazard designated by the City Engineer as susceptible to inundation of water from any source that may affect the site. If fill occurs in the flood plain, the director may require analysis of the effects of the fill on flooding of adjacent properties;

(c) The Time of Travel Zones as delineated on the Springfield Wellhead Protection Areas Map that affect the site; and

(d) Physical features including, but not limited to, riparian vegetation, trees over 5 inches or greater DBH, open drainage ways, watercourses shown on the Water Quality Limited Watercourse Map and their riparian areas, identified archeological and/or historical sites, identified threatened or endangered species habitat, areas considered for inclusion in the City's Goal 5 lands inventory, jurisdictional wetlands and rock outcroppings.

(3) The features listed in subsection (2) above must be retained and protected until such features are fully considered through a site plan review preliminary plan, subdivision tentative plan application, partition tentative plan application, tree felling permit, or other applicable development approval. To ensure retention of trees over five inches or greater DBH, the director may require a tree protection plan.

(4) Except for grading of less than 100 cubic yards associated with the construction of a single-family dwelling, an informational notification shall be provided to owners and residents of property within 100 feet of the property line where the construction activities proposed under the permit will take place. This notification must be mailed at least five days before the Permit is issued and must include the property address and an 8 1/2" x 11" map depicting the location of the construction related activities as proposed in the application, the amount of material to be graded and approximate dates the work is to take place. The applicant must pay a fee for this notification at the time of application.

(5) A permit issued under this section must not authorize the placement or construction of public or private utilities or facilities, unless the Director finds that such utilities or facilities are necessary to ensure that the proposed land and drainage alteration is adequately protective of public health, safety, and general welfare. In this event, the applicant must obtain from the City the additional permits necessary to construct such utilities or facilities.

(6) All work conducted within existing and/or proposed public rights-of-way shall be limited to the minimum necessary, in the opinion of the City Engineer, to ensure that the proposed land and drainage alteration is adequately protective of public health, safety, and general welfare.

(7) Material from the demolition of existing impervious surface (concrete, asphalt, etc.) must be legally disposed of off-site not later than one month after its demolition.

~~(1)~~(8) The applicant must secure other approvals necessary to proceed with the proposed grading, including such overlay district requirements for floodplain, hillside, historic district, the Willamette Greenway, tree felling or any regulated wetland, or any permits necessary from any other agency having jurisdiction over all or a portion of the work, before the Director issues a Pre-Approval Land Drainage and Alteration Permit under this section.

Commentary: This section adds language that the permit expires after 180 days, from SMC 8.328.

#### **8.418 Land and Drainage Alteration Permit Duration.**

(1) Permit Duration. An approved Land and Drainage Alteration Permit shall remain in effect for the full period of construction activity. The permit may be extended for a period of up to, but not to exceed, one year after completion of the construction activities, if the director determines the extension is necessary to ensure the construction activity has stabilized in accordance with the outcomes specified in section 8.408. Land and Drainage Alteration Plans proposing work between October 1 to April 30 shall include wet weather BMPs.

(2) Expiration. An approved Land and Drainage Alteration Permit becomes null and void if the construction authorized by such permit is not commenced within 180 days from the date of such permit, or if the construction authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days.

Commentary: This section adds language regarding site inspection and right of access by the City for permitted sites, from SMC 8.336.

#### **8.420 Construction Site Control ~~Measures and Design Standards.~~**

(1) Construction Site Practices. In addition to compliance with specific requirements contained in an approved Land and Drainage Alteration Permit, all permit holders shall establish and implement Land and Drainage Alteration Plan practices that will prevent toxic materials and other debris from entering the City's storm drainage and waterway systems. The following construction site practices shall be prohibited and constitute a violation of these regulations:

- (a) Improper storage of chemicals (e.g., pesticides, fertilizers, fuels, paints, plasters, thinners);
- (b) Improper disposal of construction waste material, garbage, rubbish, and sanitary waste, plaster, dry-wall, grout, gypsum;
- (c) Failure to immediately clean up spills of toxic materials;
- (d) Washing excess concrete material or other construction related material into a street, catch basin, or other public facility, the public stormwater system, private stormwater drainage systems that discharge to the public stormwater system, natural resources inventory sites, or other protected area identified on the approved Land and Drainage Alteration Plan;
- (e) Allowing construction vehicles to track or spill soil, oil or debris into or onto a street or public right-of-way;
- (f) Ground disturbing activities or destruction of vegetation in protected areas;
- (g) Beginning construction activities without a valid permit or prior to initial site inspection by director; and
- (h) Failure to maintain BMPs including, but not limited to, a sediment fence, inlet protection, or concrete wash out.



(2) Prevention Measures and Design Standards. The City's Engineering Design Standards and Procedures Manual may be utilized to obtain ideas as to how to achieve the outcomes mandated by section 8.408(1). Except as provided in section 8.408, it is not necessary to utilize any of the specific BMPs contained in the City's Engineering Design Standards and Procedures Manual, nor is the use of one or more of those BMPs a guarantee that a permit will be issued. Each site and the proposed construction related activities need to be examined to determine what measures are required for that specific site.

(3) Inspection of Work. All work under an approved Land and Drainage Alteration Permit is subject to inspection by the Director. The director or authorized representative may go upon the subject property for the purpose of making inspections and performing other duties pursuant to this code. No person shall interfere with a lawful inspection under this code.

Commentary: This section was previously 8.306, and is renumbered here to 8.421 and revised as shown below, to directly reference the existing administrative abatement procedures in the Springfield Municipal Code, which is used to abate other hazardous property conditions as needed. The Administrative Abatement procedures in 5.006 to 5.018 provide for a notice of abatement and opportunity for the responsible party to perform the abatement themselves, or else the City will perform the abatement and lien the property for the costs. The code also provides for summary abatement without prior notice in the event of an imminent danger to public safety or other emergency condition.

### **8.421306 Abatement of Hazards.**

Whenever the director determines that any existing excavation, ~~or~~ embankment, or fill on private property has become a hazard to life and limb, ~~or~~ endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel, the director may cause said condition or conditions to be abated pursuant to administrative abatement procedures in sections 5.006 through 5.018 of this code ~~the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the director, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this code.~~

Commentary: SMC 8.320 is renumbered here as 8.422

### **8.422320 Excavations.**

(1) Unless otherwise permitted, the slope of any bank in an excavation shall not be steeper than one and one-half horizontal to one vertical, except that such slope may be required to be flatter if soil conditions are found to be unfavorable, or an adjacent foundation or structure may be endangered.

(2) Terraces at least six feet in width shall be established at not more than 30-foot vertical intervals on all cut slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut slopes greater than 60 feet and up to 120 feet in vertical height one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and

spacing for cut slopes greater than 120 feet in height shall be designed by an engineer and approved by the director. Terraces shall have a transverse slope of not less than five horizontal to one vertical sloping down towards the bank above the terrace and a longitudinal slope of not less than two percent. Suitable access shall be provided to permit proper cleaning and maintenance pursuant to this code. Swales or ditches on terraces shall have a minimum gradient of five percent and must be paved with concrete not less than three inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of one foot and a minimum paved width of five feet. A single run of swales or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.

- (3) Cut slopes shall be provided with subsurface drainage as necessary for stability.

Commentary: SMC 8.322 is renumbered here as 8.424.

### **8.424322 Ground Preparation for Embankments.**

(1) The area on which an embankment or fill is to be placed shall be cleared of all vegetation, such as trees, logs, stumps, and roots of trees, brush, heavy growth of grass and weeds, and any other objectionable material, such as debris, concrete foundations, metal, or non-earthen materials which cannot be properly consolidated or will not support the load of the embankment or structures. The cleared area shall extend to a width of two feet outside the area to be filled. All trees, existing stumps and large roots shall be removed, except that within the area where fills will be three feet or more in height, trees may be cut flush with the existing ground and grubbing of the remaining stumps will not be required except at locations where subdrainage, trenches, drain pipes, foundations or other structures are to be constructed or where unsuitable materials is to be removed before construction of the embankment.

- (2) The existing ground shall be prepared to receive fill construction by:

(a) The installation of subdrains to intercept and dispose of waters from springs, aquifers, or other underground sources of water; and storm drains to intercept and dispose of surface waters where required on approved plans.

(b) Compacting the ground area upon which any embankment is to be constructed to a minimum relative compaction of 90 percent throughout the top six inches.

(3) Embankment fills shall not be constructed upon natural ground slopes which are steeper than five horizontal to one vertical unless such embankments are keyed into the natural ground; and the native material together with the fill material shall be recompacted to a relative compaction of 90 percent. The width of the benches for keying new embankments to existing slopes shall not be less than 10 feet. The construction operation shall be such that a slip plane is not created between the original material and the newly compacted material.

Commentary: SMC 8.324 is renumbered here as 8.426.

### **8.426324 Embankment and Backfill.**

(1) The slopes of an embankment shall not be steeper than two horizontal to one vertical, except where the soils and geology report indicates that steeper slopes may be constructed and maintained safely without creating a potential sliding or erosion condition.

(2) In fills over 20 feet in height, a terrace having a minimum width of six feet shall be constructed in the fill slopes, with a maximum vertical spacing of 20 feet between terraces or from the top or bottom of the fill slopes, except that the vertical spacing may be increased if slopes are commensurately flattened where such increase and flattening is recommended by an engineer and approved by the director. The terrace shall have a transverse slope of not less than five horizontal to one vertical sloping down towards the embankment, and a longitudinal slope of not less than two percent. Drainage along the terrace shall be provided as required by section [8.4248.322](#) of this code.

(3) (a) Except as noted below for rock fill, material for embankments and backfills for excavations, slides, walls and other structures shall be spread in layers not exceeding eight inches in loose thickness before compaction, and each layer shall be compacted to a relative compaction of not less than 90 percent.

(b) The side slopes of all embankments shall be compacted by means of tampers or rollers to a minimum of 85 percent relative compaction.

(4) (a) When fill material includes rock, individual rock shall not be greater than three feet in greatest dimension, and no rock larger than six inches in greatest dimension will be permitted less than 18 inches below finished grade of the embankment. No large rocks will be permitted to nest, and all voids shall be filled with earth or other fine material and properly compacted.

(b) Material used for backfilling within 18 inches of walls or other structures shall be free from stones or lumps of material exceeding four inches in greatest dimension.

(5) At the time of compaction, the moisture content of the embankment material shall be such that the minimum relative compaction specified may be obtained with the compacting equipment being used. Water shall be added in the required amount to obtain the optimum moisture content for achieving maximum density. Compaction of embankment material which contains excessive moisture shall be delayed until the material has been allowed to dry to such an extent that the relative compaction specified may be produced with the compacting equipment being used.

(6) Sufficient field and laboratory tests to determine the relative compaction of the ground and embankment material shall be taken and shall not be less frequent than necessary to obtain compaction tests in each two feet of vertical lift of the embankment. The results of such testing shall be included in the reports required by section [8.4368.338](#) of this code.

(7) The absence of compaction test reports, or inaccuracies or inconsistencies in the test results shall be deemed sufficient to reject the completed construction or to delay issuance of a certification of completion until additional test reports are satisfactory and indicate compliance. The director may require a certificate by an approved soils testing agency based on the tests of the fill at selected elevations.

Commentary: SMC 8.330 is being renumbered 8.430. This section helps ensure that applicants proactively update or resubmit permit applications when conditions at a site change or do not match what was approved in the permit, or if another dangerous condition occurs. If an applicant does not update their Permit (and associated plans) due to changed conditions, then the City may suspend or revoke the permit until the applicant corrects the conditions and/or submits a new permit application with corrected plan(s). This section ensures compliance with MS4 Permit Schedule A.3.d.iv.C, which requires erosion and sediment control plans be maintained and updated as site conditions change, or as needed.

### **8.430330 Permit Suspension or Revocation.**

(1) The director may, in writing, suspend or revoke a permit issued under the provisions of this code whenever it is found that:

- (a) The permit was issued in error or on the basis of incorrect information;
- (b) Conditions at the site vary appreciably from that stated in the application or shown on the grading plans;
- (c) Construction does not conform to the approved plans, grades, or other conditions of the grading permit;
- (d) Cessation of work before completion have, left the site in a condition hazardous to public or to the adjacent properties, and the applicant does not comply with reasonable requirements as to completion of the work within the time specified in the permit or an approved extension of time therefor;
- (e) The applicant does not comply with reasonable requirements to safeguard the workers, the public, or other persons acting in a lawful manner, during his or her construction operations;
- (f) The applicant, in transporting materials, or operating equipment in, around, to and from the site and in connection with the grading operations for which the permit was issued, fails to operate the equipment properly on or along public roads, or allows materials or litter to encroach, obstruct or be deposited on pavement, or in drainage channels, or otherwise within the road right-of-way, to the detriment of the public road, or creates a hazard on the public road, or causes unauthorized obstruction or diversion of drainage channels within the site areas;
- (g) Failure to have a qualified inspector, working under the supervision of a registered engineer, on the site during construction operations when so required under the permit.

(2) Upon issuance of a notice to cease work, or the suspension of the grading permit, the applicant shall immediately cause all grading and hauling operations connected therewith to cease until permission is received from the director allowing the applicant to proceed after correcting the objectionable conditions or operations so as to eliminate the hazard or encroachment and to prevent recurrence of the situation.

(3) Upon the order of the director, any grading permit so suspended may be either reinstated or revoked. Whenever a permit has been revoked, work on the site shall not again commence until a new application has been filed incorporating the necessary revisions in plans or methods of operation required to fulfill the intent of sections 8.400 to 8.436 ~~8.300 to 8.338~~ and in accordance with the regulations herein, and approved by the director.

Commentary: SMC 8.332 is being renumbered 8.432.

### **8.432332 Fees.**

(1) Plan Checking Fee. For excavation and fill on the same site, the fee shall be based on the volume of the excavation or fill, whichever is greater. Before accepting a set of plans and specifications for checking, the director shall collect a plan-checking fee. Where not covered by the approved improvement plans for the development, separate permits and fees may apply to retaining walls or major drainage structures in accordance with the state building code. There shall be no separate charge for standard terrace drains and similar facilities. The amount of the plan checking fee for grading plans shall be based on the average actual costs as set forth by resolution of the City Council. The rates and charges herein provided are for incurred costs based upon the use or availability for use of the public right-of-way and/or the storm sewer system, as well as for meeting the routine obligations of ownership, which is necessary for the regulation of and provision for, the public health, safety and welfare. The charge is controlled by the user's or potential user's request and choice of the kind, nature and quantity of use. The plan-checking fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between such fee paid for the original permit and the fee shown for the entire project.

(2) Grading Permit Fees. A fee for each grading permit shall be paid to the director based on the average actual costs as set forth by resolution of the City Council. The rates and charges herein provided are for incurred costs based upon the use or availability for use of the public right-of-way and/or the storm sewer system, as well as for meeting the routine obligations of ownership, which is necessary for the regulation of, and provision for, the public health, safety and welfare. The charge is controlled by the user's or potential user's request and choice of the kind, nature and quantity of use. The fee for grading permit authorizing additional work to that under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

Commentary: SMC 8.334 is renumbered here as 8.434, with revisions as shown below. The changes include reorganizing the content for better clarity, and separating out the requirements for the form of financial security into a new subsection, and replacing detailed bond requirements with a general requirement that financial security be in a form approved by the City Attorney. This change allows more flexibility for the types of security accepted by the City, depending on specific circumstances. In addition, the amount of financial security required is increased from 110% to 120% to be consistent with other financial security requirements for development-related activities in the City of Springfield.

### **8.434334 BondsFinancial Security.**

(1) When Bond-Financial Security is Required. The director may require that the applicant file financial security if ~~If the director determines that~~ the nature of the work regulated-permitted is such that, if left incomplete, it will result in any one or more of the following conditions:

~~(a) endanger~~ Endangering an adjoining property or street; ~~or will~~

~~(b) create~~ Creating a hazard to human life or health on any property; ~~or will~~

~~(c) negatively affecting any~~ Negatively affecting any physical features including, but not limited to: riparian vegetation; ~~trees over five inches or greater DBH;~~ trees over five inches or greater DBH; open ~~drainage ways~~ stormwater management facilities; watercourses shown on the Water Quality Limited Watercourse Map and their riparian areas; ~~locally significant riparian areas; locally significant wetlands;~~ locally significant riparian areas; locally significant wetlands; identified archeological and/or historical sites, identified threatened or endangered species habitat, ~~areas considered for inclusion in the City's Goal 5 lands inventory;~~ areas considered for inclusion in the City's Goal 5 lands inventory; jurisdictional wetlands, ~~or and~~ and rock outcroppings.

~~(2)~~ (2) Amount of Required Security. Required security must equal to 120 percent of the cost of the design, materials, and labor of the work proposed by the permit, or 120 percent of the amount necessary to return the site to pre-alteration conditions, whichever amount is determined in the public's best interest by the director. Required security must consist of cash, certified check, time certificate or deposit, or lending agency certification to the City that funds are being held until completion. When the final permitted improvements are complete and certified by the Director, any portion of the remaining security deposited with the City, including any accrued interest, will be returned to the depositor. The financial security must be in a form approved by the City Attorney. ~~Such bond or other security shall obligate the principal, his or her executors, administrators and assigns, jointly and severally, and the surety, to the city for the faithful performance of the work required. Such bond or other security shall further provide that it will not be challenged or terminated until at least 30 days' notice thereof has been filed with the director.~~

~~(23)~~ (23) Notice of Default. Whenever the director ~~shall find~~ finds that a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the principal and to the surety on the ~~bond~~ financial security. Such notice shall state the work to be done to achieve a safe and satisfactory condition and the period of time ~~in which the work must be completed, as deemed by the director to be~~ reasonably determined necessary for the completion of such work by the director.

~~(34)~~ (34) Duty of Surety. After receipt of such notice the surety shall, within the time therein specified, cause the required work to be performed.

~~(45)~~ (45) Application of Financial Security by the City. ~~If the required work is not completed, or if the work is performed improperly and not remedied, within the time approved by the director, then the City may use the security to complete the work or restore the property to pre-alteration condition, as determined by the director. This remedy is in addition to, and not in lieu of, the City's other enforcement authorities. Disposition of Cash Bond.~~ If a cash bond has been postponed and the notice of default, as approved by the preceding paragraph, has been given to the principal, and compliance by the principal with the notice of default is not obtained within the time specified, the director may, upon suspending or revoking the grading permit pursuant to section 8.330 of the code, proceed without delay and without further notice or proceedings whatsoever to use the cash deposited to cause the required work to be done by contract or other means as may be determined at the discretion of the director. The balance, if any, of such deposit shall, upon completion of the work, be returned to the depositor after deducting the cost of the work plus 10 percent thereof.

(5) Right of Entry. In the event of any default in the performance or any term or condition of the permit for the work, after providing reasonable notice, the surety or any person employed or engaged on its behalf or any authorized representative of the director shall ~~after providing reasonable notice~~ have the right to go upon the premises to complete the required work or make it safer restore the property to pre-alteration conditions.

(6) Interference Prohibited. No person shall interfere with or obstruct the ingress or egress to or from such premises by any authorized representative or agent of any surety or of the City engaging in completing the work required to perform under the permit or in complying with the terms and conditions thereof or in inspecting the grading operation pursuant to section ~~8.4368.338~~ of this code.

~~(7) Term of Bond; Completion. The term of each bond posted shall begin under the date of the posting thereof and shall end upon the satisfactory completion of the terms and conditions stated in the permit. Such completion shall be evidenced by a certificate of completion as provided in section ~~8.338~~, a copy of which will be sent to any surety upon request. When a cash bond has been posted, it less any amounts deducted to pay for work performed on order of the director pursuant to any notice of default with said work being charged at a rate three times the wages, equipment fees and material costs, plus 40 percent overhead, or \$200.00, which ever is greater, shall be returned to the depositor upon completion of the work.~~

Commentary: SMC 8.338 is renumbered here as 8.436, with minor revisions for clarity.

### **8.338-436 Completion of Work.**

(1) Final Reports. Upon completion of the rough grading work and at the final completion of the work, the director may require that the grading plan ~~prepared by the engineer~~ be supplemented or amended to show the final as-built conditions of the site, including the original ground surface elevations, the as-graded ground surface elevations lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. ~~He or she~~ The engineer who prepared the grading plan shall provide approval that the work was done in accordance with the final approved grading plan.

(2) Notification of Completion. The ~~applicant permittee or agent~~ shall notify the director when the grading operation is ready for final inspection. The director will provide Ffinal approval ~~shall not be given until~~ when all work has been completed under the permit, -including installation of all drainage facilities and their protective devices; ~~and~~ all erosion control measures have been completed in accordance with the final approved grading plan; ~~and~~ ~~the all~~ required reports and as-built plans have been submitted and approved by the director.