

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 705

An Ordinance amending the Multnomah County Code Chapter 11.15 by amending regulations applicable to grading and filling activities, and clarifying standards applicable to land disturbing activities within the Tualatin River Drainage Basin, and declaring an emergency.

(Language in brackets [] is to be deleted; underlined sections are new text.)

Multnomah County Ordains as follows:

Section I. Findings.

(A). On August 3, 1989, the State of Oregon Environmental Quality Commission (EQC) promulgated rules for the Tualatin River Basin that requires Multnomah County and all other counties and cities within the Tualatin River Drainage Basin to submit plans for control of urban storm runoff. Oregon Administrative Rules (OAR) 340-41-470(3)(g) states: "Within 18 months after adoption of these rules, Washington, Clackamas, Multnomah Counties and all incorporated cities within the Tualatin River and Oswego Lake subbasins shall submit to the Department a program plan for controlling the quality of urban storm runoff within their respective jurisdictions to comply with the requirements of sections (a) and (b) of this rule."

(B). Multnomah County Ordinance Number 643 amended MCC 11.15 (adopted February 20, 1990). These County Zoning Ordinance amendments were in part adopted to address 1989 OAR provisions regarding erosion control within the Tualatin Basin. Ordinance 643 added a "*Hillside Development and Erosion Control*" subsection to the Multnomah County Zoning Ordinance (MCC 11.15.6700 -.6735). The subsection requires a "*Grading and Erosion Control Permit*" for most land disturbing activities within the Tualatin Basin.

(C). Ordinance No. 677 amended MCC 11.15 to clarify and add specific provisions regarding stormwater run-off and stream protection in the Tualatin River Drainage Basin. These amendments were adopted on April 23, 1991.

(D)The State of Oregon Department of Environmental Quality (DEQ) has indicated that implementing code provisions in MCC 11.15 do not sufficiently address all of the 1989 OAR 340 provisions. The County Zoning Code does not require a **Grading and Erosion Control Permit** for several *Categorical Exemptions* in the Tualatin River Drainage Basin. DEQ indicates that applicable OAR's can be addressed through text amendments to the *Hillside Development and Erosion Control* subsection of MCC 11.15.

(D). To avoid potential enforcement proceedings by DEQ, it is necessary to amend MCC Chapter 11.15 regarding erosion control and storm water runoff provisions applicable within the Tualatin River Drainage Basin.

(E). An emergency is declared because Multnomah County has not met the OAR 340 schedule of compliance.

Section II. Amendments.

Multnomah County Code Section 11.15.6715 and 11.15.6730 are amended as follows:

11.15.6715 Exempt Land Uses and Activities

The following are exempt from the provisions of this Chapter:

- (A) Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.
- (B) General Exemptions – Outside the Tualatin River Drainage Basin, all land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life,

limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

- (1) Natural and finished slopes will be less than 25 %; and,
- (2) The disturbed or filled area is 20,000 square feet or less; and,
- (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,
- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified; and,
- (7) The activity will not take place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water ,or within the wetlands associated with a watercourse or water body, whichever distance is greater.

(C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through (7), the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a Permit pursuant to OAR 340-41-455(3):

- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.
- (2) Cemetery graves, but not cemetery soil disposal sites.
- (3) Refuse disposal sites controlled by other regulations. Sites in the Tualatin Basin shall require Erosion Control Plans for exposed areas consistent with OAR 340-41-

1 455(3).

2 (4) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control
3 Plans for spoils or exposed areas consistent with OAR 340-41-455(3).

4 (5) Mineral extraction activities as regulated by MCC .7305 through .7335, except that sites in the
5 Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with
6 OAR 340-41-455(3).

7 (6) Exploratory excavations under the direction of certified engineering geologists or geotechnical
8 engineers.

9 (7) Routine agricultural crop management practices.

10 (8) Emergency response activities intended to reduce or eliminate an immediate danger to life,
11 property, or flood or fire hazards.

12 (9) Forest practices as defined by ORS 527 (State Forest Practices Act) and approved by the
13 Oregon Department of Forestry.

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15 **11.15.6730 Grading and Erosion Control Permit Standards**

16 Approval of development plans on sites subject to a Grading and Erosion Control Permit shall be based
17 on findings that the proposal adequately addresses the following standards. Conditions of approval may
18 be imposed to assure the design meets the standards:

19 (A) Design Standards For Grading and Erosion Control

20 (1) Grading Standards

21 (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas
22 intended to support structures shall be identified on the plan. The Director or delegate
23 may require additional studies or information or work regarding fill materials and
24 compaction;

25 (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering
26 analysis certifies that steep slopes are safe and erosion control measures are specified;

- (c) Cuts and fills shall not endanger or disturb adjoining property;
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;
- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;

(2) Erosion Control Standards

- (a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the "Erosion Control Plans Technical Guidance Handbook" and the "Surface Water Quality Facilities Technical Guidance Handbook." Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.
- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;
- (c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;
- (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
- (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- (f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

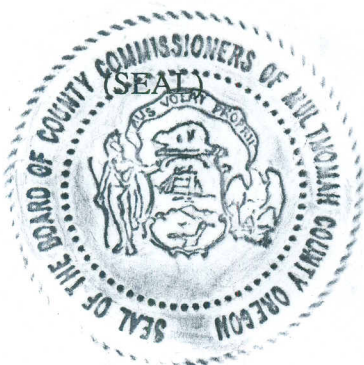
- (g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;
- (h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;
- (i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;
- (j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;
- (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;
- (l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:
 - (i) Energy absorbing devices to reduce runoff water velocity;
 - (ii) Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
 - (iii) Dispersal of water runoff from developed areas over large undisturbed areas.
- (m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;
- (n) Such non-erosion pollution associated with construction such as pesticides, fertilizers,

1 petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented
2 from leaving the construction site through proper handling, disposal, continuous site
3 monitoring and clean-up activities.

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6 Section III. Adoption.

7 This ordinance, being necessary for the health, safety, and general welfare of the people of
8 Multnomah County, an emergency is declared and the Ordinance shall take effect upon its execution by the
9 County Chair, pursuant to Section 5.50 of the Charter of Multnomah County.

10 ADOPTED THIS 26th day of November, 1991, being the date of its first
11 reading before the Board of County Commissioners of Multnomah County.



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By Gladys McCoy
Gladys McCoy, County Chair
MULTNOMAH COUNTY, OREGON

REVIEWED:

John DuBay
John DuBay, Deputy County Counsel
of Multnomah County, Oregon