

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. 705

4
5 An Ordinance amending the Multnomah County Code Chapter 11.15 by amending
6 regulations applicable to grading and filling activities, and clarifying standards applicable to
7 land disturbing activities within the Tualatin River Drainage Basin, and declaring an
8 emergency.

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

10 Multnomah County Ordains as follows:

11
12 Section I. Findings.

13 (A). On August 3, 1989, the State of Oregon Environmental Quality Commission
14 (EQC) promulgated rules for the Tualatin River Basin that requires Multnomah County and all
15 other counties and cities within the Tualatin River Drainage Basin to submit plans for control
16 of urban storm runoff. Oregon Administrative Rules (OAR) 340-41-470(3)(g) states: "Within
17 18 months after adoption of these rules, Washington, Clackamas, Multnomah Counties and all
18 incorporated cities within the Tualatin River and Oswego Lake subbasins shall submit to the
19 Department a program plan for controlling the quality of urban storm runoff within their
20 respective jurisdictions to comply with the requirements of sections (a) and (b) of this rule."

21 (B). Multnomah County Ordinance Number 643 amended MCC 11.15 (adopted
22 February 20, 1990). These County Zoning Ordinance amendments were in part adopted to
23 address 1989 OAR provisions regarding erosion control within the Tualatin Basin. Ordinance
24 643 added a "*Hillside Development and Erosion Control*" subsection to the Multnomah
25 County Zoning Ordinance (MCC 11.15.6700 -.6735). The subsection requires a "*Grading and*
26 *Erosion Control Permit*" for most land disturbing activities within the Tualatin Basin.

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

4 (D)The State of Oregon Department of Environmental Quality (DEQ) has indicated that
5 implementing code provisions in MCC 11.15 do not sufficiently address all of the 1989 OAR
6 340 provisions. The County Zoning Code does not require a **Grading and Erosion Control**
7 **Permit** for several *Categorical Exemptions* in the Tualatin River Drainage Basin. DEQ
8 indicates that applicable OAR's can be addressed through text amendments to the *Hillside*
9 *Development and Erosion Control* subsection of MCC 11.15.

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

13 (E). An emergency is declared because Multnomah County has not met the OAR
14 340 schedule of compliance.

15
16 Section II. Amendments.

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

18
19 **11.15.6715 Exempt Land Uses and Activities**

20 The following are exempt from the provisions of this Chapter:

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

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

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

15
16 (C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through (7), the
17 following activities are exempt from the permit requirements, except that in the Tualatin
18 River Drainage Basin, activities which effect water quality shall require a Permit
19 pursuant to OAR 340-41-455(3):

- 20 (1) An excavation below finished grade for basements and footings of a building,
21 retaining wall, or other structure authorized by a valid building permit. This shall
22 not exempt any fill made with the material from such excavation, nor exempt any
23 excavation having an unsupported finished height greater than five feet.
24 (2) Cemetery graves, but not cemetery soil disposal sites.
25 (3) Refuse disposal sites controlled by other regulations. Sites in the Tualatin Basin
26 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.

14

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;

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

7 (2) Erosion Control Standards

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

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

