

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1042

Amending MCC Chapter 29, Building Regulations, Relating to Grading And Erosion Control to Correct Errors, Clarify the Types of Actions that Require a Permit, and Streamline the Review Process

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Regulating the grading of property under county building codes is necessary to promote the public health, safety and general welfare, ensuring that appropriate steps are taken at the time of development to protect exposed soil surfaces from erosive forces.
- b. While the County's existing grading and erosion control codes have provided some level of protection, they are dated in terms of current erosion control practices and contain erroneous references that must be corrected to avoid confusing the public and undermining the effectiveness of the program.
- c. A citizen taskforce, formed in 2000, prepared recommendations to revise the code, focusing on a reasonable threshold for requiring grading review and standards to be applied as part of that review. Recommendations incorporated into these revised codes are consistent with current science and field practices.
- d. These amendments improve upon the most problematic aspects of the Grading and Erosion Control codes as identified by the taskforce, Planning Commission, and planning staff, including:
 - (1) eliminating language that required a permit for the placement of gravel on a driveway;
 - (2) changing the volume based threshold used for determining when a permit is needed to one that considers area of disturbance and steepness of a slope; and
 - (3) streamlining the review process by only requiring a permit when development is proposed in areas where "science" suggests a significant erosion risk exists.
- e. Although no formal action was taken, or required for these changes, the concepts behind them have been presented to the Planning Commission at workshops held December 2, 2002 and May 5, 2003 and taskforce at a meeting held April 29, 2003 to ensure that they were comfortable with the approach.
- f. The Multnomah County Comprehensive Framework Plan supports these revisions, identifying the protection of the public health, safety, and welfare as a goal of the Land Use Planning Program that is achieved in part by regulating design and construction techniques to ensure "on-site" or "off-site" public harm attributed to soil erosion is avoided, and that drainage of storm water is appropriately managed so as to not adversely affect water quality.

Multnomah County Ordains as follows:

Section 1. §29.300 is renumbered and amended as follows:

§ 29.300330- PURPOSES.

The purposes of the ~~Hillside Development~~ Grading and Erosion Control Subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated areas of the county, all in accordance with ORS 215, ~~LCDC Statewide Planning Goal No. 7 and~~ OAR 340-41-455 for the Tualatin River Basin, and the County Comprehensive Framework Plan Policy No. ~~1437~~. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands ~~within the Tualatin River and Balch Creek Drainage Basins.~~

Section 2. §29.301 is renumbered and amended as follows:

§ 29.301331 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~**CERTIFIED ENGINEERING GEOLOGIST.** Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

~~**DEVELOPMENT DISTURBED AREA.** The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.~~

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~———— ***GEOTECHNICAL ENGINEER.*** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

~~———— ***GEOTECHNICAL REPORT.*** Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.~~

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

GRAVEL. Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

GROUND DISTURBING ACTIVITY. Any activity that exposes soil through the use of motorized equipment.

~~———— ***HDP FORM-1.*** The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.~~

~~———— ***LAND-DISTURBING ACTIVITIES.*** Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities include: excavations or fills, site grading, and soil storage.~~

MULCH. Organic Mmaterials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~**SLOPE HAZARD MAP.** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;

- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

WATER BODY. Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.

WATERCOURSE. Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.

Section 3. §29.333 is added as follows:

§ 29.333 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.30 or exempt under §29.30 this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 4. §29.302 is renumbered and amended as follows:

§ 29.302-336 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.305 and § 29.306:

(A) Grading and erosion control permit. All persons proposing site grading. All ground disturbing activities where:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or

(2) Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or

(3) Which takes 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, shall obtain a grading and erosion control permit as prescribed by this Subdistrict, unless exempted by §§ 29.302(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or

(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and five feet in height.

(B) Grading and erosion control permit. All persons proposing land disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.302(C) of this subchapter.

(B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.

(C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.

Section 5. §29.303 is renumbered and amended as follows:

§ 29.303-339 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

(A) Prior development. 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 and Balch Creek Drainage Basins, 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%;~~
- ~~_____ (2) The disturbed or filled area is 20,000 square feet or less;~~
- ~~_____ (3) The volume of soil or earth materials to be stored is 50 cubic yards or less;~~
- ~~_____ (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~
- ~~_____ (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.~~

~~_____ (C) Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, 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):~~

~~_____ (1A) 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. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.~~

~~_____ (2B) Cemetery graves, but not cemetery soil disposal sites.~~

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

~~_____ (4D) Mineral extraction activities as regulated by the county zoning code, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

~~_____ (5E) _____ Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.~~

~~_____ (6F) Routine agricultural crop-management practices.~~

~~_____ (7G) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.~~

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

~~_____ (9I) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry. ('90 Code § 9.40.020) (Ord. 847, passed 1996)~~

(J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act,

Section 6. §29.304 is renumbered and amended as follows:

§ 29.304342 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this Subdistrict shall include two copies of ~~include~~ the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations ~~An estimate~~ the volume of depths and ~~the extent and location~~ of all proposed cuts and fills.

(C) ~~The location of planned and existing sanitary drainfields and drywells. Documents stamped by an Oregon licensed Professional Engineer demonstrating that:~~

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 7. §29.305 is renumbered and amended as follows:

§ 29.305345 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) *Design standards for grading and erosion control.*

(1) *Grading standards.*

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

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering 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 all sheet flow through the~~ handle stormwater attributed to development on-site for ~~from a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses passing through or adjacent to the property;~~

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(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 currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*." ~~Land~~Ground-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;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (e)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(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:

1. Energy absorbing devices to reduce runoff water velocity;
2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
3. 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, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

~~(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the Erosion Control Plans Technical Guidance Handbook (January, 1991). All land disturbing activities within the basin shall be confined to the period between May 1 and October 1 of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October 1 the same year the development was begun. All soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 the same year the development was begun.~~

(B) *Responsibility.*

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such

sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) *Implementation.*

(1) *Performance bond.* A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) *Inspection and enforcement.* The director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit or~~ Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) *Final approvals.* A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 8. § 29.306 is renumbered as follows

29.306-348 PERMIT FEE.

A fee for a grading and erosion control permit is imposed and the amount will be set by Board resolution.

Section 9. §29.320 is renumbered and amended as follows:

§ 29.320-350- PURPOSES.

The purposes of the Grading and Erosion Control ordinance are to promote the public health, safety and general welfare, and minimize erosion and related environmental damage in the West of Sandy River Plan Area of unincorporated Multnomah County, all in accordance with ORS 215, ~~LCDG~~ Statewide Planning Goal No. 6 and the County Comprehensive Framework Plan Policies ~~13 and 14~~ and 37. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;

- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands.

Section 10. §29.321 is renumbered and amended as follows:

§ 29.321351 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~———— ***CERTIFIED ENGINEERING GEOLOGIST.*** Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

~~———— ***DEVELOPMENT.*** Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel. (Title 3)~~

DEVELOPMENT DISTURBED AREA. The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

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FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~———— **GEOTECHNICAL ENGINEER.** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

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ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

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- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~***SLOPE HAZARD MAP.*** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

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STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;
- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

~~***WATER BODY.*** Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.~~

~~***WATERCOURSE.*** Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.~~

Section 11. §29.353 is added as follows:

§ 29.353 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.327 or exempt under §29.328this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 12. §29.322 is renumbered and amended as follows:

§ 29.322356 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.325 and §29.326:

(A) Grading and erosion control permit. All persons proposing land disturbing activities or development All ground disturbing activities where:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 10 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or

(2) Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or

(3) Which takes 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, shall obtain a grading and erosion control permit as prescribed by this subdistrict, unless exempted by §§ 29.323(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do

~~not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or~~

~~(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and five feet in height.~~

~~(B) Grading and erosion control permit. All persons proposing land-disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.323(C) of this subchapter.~~

~~(B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.~~

~~(C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.~~

Section 13. §29.323 is renumbered and amended as follows:

§ 29.323359 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

~~(A) Prior development. 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 and Balch Creek Drainage Basins, 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%;~~

~~(2) The disturbed or filled area is 20,000 square feet or less;~~

~~(3) The volume of soil or earth materials to be stored is 10 cubic yards or less;~~

~~(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~

~~(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.~~

~~(C) Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements:~~

~~(1A) 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. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.

———(2B) Cemetery graves, but not cemetery soil disposal sites.

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

———(4D) Mineral extraction activities as regulated by the county zoning code.

———(5E) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

———(6F) Routine agricultural ~~crop~~ management practices.

———(7G) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

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

———(9I) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry.

———(J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

Section 14. §29.324 is renumbered and amended as follows:

§ 29.324362 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this subdistrict shall include two copies of the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations ~~An estimating the volume of depths and the extent and location~~ of all proposed cuts and fills.

(C) The location of planned and existing sanitary drainfields and drywells. Documents stamped by an Oregon licensed Professional Engineer demonstrating that:

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 15. §29.325 is renumbered and amended as follows:

§ 29.325365 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design standards for grading and erosion control.

(1) Grading standards.

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

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering 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 all sheet flow through the~~ handle stormwater attributed to development on-site for ~~from a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses passing through or adjacent to the property;~~

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(2) Erosion control standards.

(a) 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;

(b) 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;

(c) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(d) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (d)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook" and the "City of Portland Stormwater Quality Facilities, A Design Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(e) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(f) 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;

(g) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(h) 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;

(i) 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;

(j) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(k) 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:

1. Energy absorbing devices to reduce runoff water velocity;

2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

3. Dispersal of water runoff from developed areas over large undisturbed areas.

(l) 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;

(m) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be

prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

(B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) Implementation.

(1) Performance bond. A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) Inspection and enforcement. The director may take steps to ensure compliance with the requirements of this sub-section, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit or Grading and Erosion Control Permit~~, work may be stopped until appropriate correction measures are completed.

(D) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 16. § 33.6183 is amended as follows

33.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 17. § 34.6183 is amended as follows

34.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 18. § 35.6183 is amended as follows

35.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through ~~29.305-345~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 19. § 36.6183 is amended as follows

36.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 ~~350~~ through ~~29.305-365~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC ~~29.600-620~~ through ~~29.611-630~~ when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 20. § 36.2060 is amended as follows

36.2060 DIMENSIONAL REQUIREMENTS.

(I) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 21. § 36.2660 is amended as follows

36.2660 DIMENSIONAL REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 22. § 36.2855 is amended as follows

36.2855 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 23. § 36.3155 is amended as follows

36.3155 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 24. § 36.3355 is amended as follows

36.3355 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 25. § 36.3455 is amended as follows

36.3455 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 26. § 36.3550 is amended as follows

36.3550 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

FIRST READING:

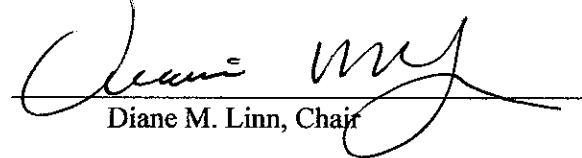
June 24, 2004

SECOND READING AND ADOPTION:


July 8, 2004



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Christopher D. Crean, Assistant County Attorney