

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 947

An Ordinance Amending Chapter 11.15 to Add Provisions for Emergency/Disaster
Response Activities

(~~Struck through~~ language is deleted; double- underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. During the winter of 1996, several catastrophic natural events occurred in Multnomah County. Local and Interstate highways were blocked, as was also a major rail line, houses were destroyed and riverbanks eroded threatening private property and public facilities.
- b. While many actions were taken which where necessary to maintain interstate commerce, protect life, and restore vital public services, many activities were in violation of the County Zoning Ordinance.
- c. In February 1999, Multnomah County Adopted an emergency/disaster response ordinance (Ordinance No. 925) applicable to those lands within the Columbia River Gorge National Scenic Area (CRGNSA), consistent with the Management Plan for the CRGNSA. The intent of the proposed new ordinance is to extend similar provisions countywide with the understanding that emergency/disasters do not stop at jurisdictional or other boundaries.

The Multnomah County Board of Commissioners Ordains:

Section 1. MCC § 11.15.0010, Definitions, is amended to add the following definitions:

Emergency/Disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

Emergency/Disaster Response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above).

Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

Section 2. MCC Chapter 11.15 is amended to add the following subsections:

11.15.2008(P), 11.15.2048(T), 11.WH.2088(T), 11.WH.2048(T), 11.ES.2088(T), 11.ES.2048(T), 11.WR.2048(T), 11.15.2128(E), 11.15.2168(F), 11.15.2208(E), 11.15.2248(E), 11.15.2386(E), 11.15.2406(E), 11.15.2506(C), 11.15.2526(C), 11.15.2546(C), 11.15.2566(C), 11.15.2586(C), 11.15.2606(C), 11.15.2626(C), 11.15.2746(F), 11.15.2766(G), 11.15.2832(J), 11.15.2842(J), 11.15.2852(J), 11.15.2862(J), 11.15.2872(J), 11.15.2882(J), 11.15.2892(M), 11.15.2914(J),

11.15.4652(D), 11.15.4702(E), 11.15.4752(D), 11.15.5120(P), 11.15.5220(L),
11.15.5320(H) ,

that shall read as follows:

Actions taken in response to an emergency/disaster event as defined in MCC
11.15.0010 pursuant to the provisions of MCC 11.15.2282.

Section 3. MCC Chapter 11.15 is amended to add the following subsections:

11.15.2010(L), 11.15.2049(C), 11.WH.2089(C), 11.WH.2049(C), 11.ES.2089(C),
11.ES.2049(C), 11.WR.2049(C), 11.15.2130(D), 11.15.2170(C), 11.15.2210(D),
11.15.2250(D), 11.15.2388(G), 11.15.2408(G), 11.15.2508(G), 11.15.2528(G),
11.15.2548(G), 11.15.2568(H), 11.15.2588(I), 11.15.2608(J), 11.15.2628(I),
11.15.2748(J), 11.15.2768(J), 11.15.2832(K), 11.15.2842(K), 11.15.2852(K),
11.15.2862(K), 11.15.2872(K), 11.15.2882(K), 11.15.2882(N), 11.15.2914(K),
11.15.4625(E), 11.15.4702(F), 11.15.4752(E), 11.15.5125(J), 11.15.5225(G),
11.15.5325(G),

that shall read as follows:

Placement of Structures necessary for continued public safety, or the protection
of essential public services or protection of private or public existing structures,
utility facilities, roadways, driveways, accessory uses and exterior improvements
damaged during an emergency/disaster event. This includes replacement of
temporary structures erected during such events with permanent structures
performing an identical or related function. Land use proposals for such
structures shall be submitted within 12 months following an emergency/disaster

event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

Section 4. MCC Chapter 11.15 is amended to add §11.15.2282 as follows:

11.15.2282 Responses to an Emergency/Disaster Event

Responses to an emergency/disaster event are allowed in all zoning districts when in compliance with the following standards:

(A) General standards for all response activities.

(1) Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

(2) Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life, property, public services or the environment, an extension of no more than two years may be granted by the Planning Director.

(3) The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

(4) No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake, or riparian area within Multnomah

County as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determined to not be possible without further jeopardizing life or property.

(B) Notification Requirements

(1) Actions taken in response to an emergency/disaster event, as defined in MCC .0020, are allowed in all land use designations, subject to the following notification requirements.

(a) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner.

Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(b) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(c) At a minimum, the following information shall be required at the time of notification:

(i) Nature of emergency/disaster event.

(ii) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).

(iii) Location of emergency/disaster response activities.

(iv) Estimated start and duration of emergency/disaster response activities.

(v) Contact person and phone number for the parties conducting emergency/disaster response actions.

(d) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

(2) Upon notification of an emergency/disaster response action, the Planning Director shall, as soon as possible:

(a) Review their natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites, and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(b) Notify applicable agencies of all emergency/disaster response activities.

(3) Upon response from applicable agencies, the applicant shall take necessary measures based on the recommendations of the applicable agencies to minimize impacts to resources from emergency/disaster response actions. If the recommendations of the applicable agencies conflict with those of the County or other jurisdictions, the recommendations of the County shall prevail for the purposes of this section.

(C) Post-Emergency/Disaster Response Application Requirements

(1) Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Planning Director. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and no more than two (2) extensions shall be granted.

(2) Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

(3) Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500' of a known cultural resource (as determined in the notification process).

(4) Applications shall include the following information:

(a) Applicant's name and address.

(b) Location of emergency/disaster response.

(c) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

(d) A map of the project area drawn to scale, at a scale of 1"=200' or a scale providing greater detail. The map shall include:

(i) North arrow and scale.

(ii) Boundaries, dimensions and size of subject parcel(s).

(iii) Topography at a contour interval sufficient to describe the terrain of the project site.

(iv) Bodies of water, watercourses, and significant landforms.

(v) Existing roads and structures.

(vi) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(e) An exception to the scale requirements of subsection (4)(d) may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1"=200' or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

(D) Post-Emergency/Disaster Response Site Review

All applications for post-emergency/disaster response Site Review shall be processed pursuant to the procedural provisions of a Type II decision and in compliance with the approval criteria of this section.

(E) Post-Emergency/Disaster Response Approval Criteria

Actions taken in all land use designations that are in response to an emergency/disaster event shall be reviewed for compliance with the following standards:

- (1) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.
- (2) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension of up to one year.
- (3) Spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action, shall either be:
 - (i) Removed from Multnomah County or deposited at a site within the Multnomah County where such deposition is, or can be, allowed, or
 - (ii) Contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.
- (4) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall immediately cease work and contact the Planning Director and the State Historic Preservation Office (SHPO).
- (5) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(6) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be maintained to the maximum extent practicable.

(i) *Wetlands, Streams, Ponds, Lakes, Riparian Areas*

(A) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:

(1) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes, or riparian areas.

(2) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(B) Impacts to wetlands, streams, ponds, lakes, and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(C) If the Planning Director determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. If the project applicant accepts these recommendations, the Planning Director shall incorporate them into the Site Review decision.

(D) Unless addressed through C above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the following:

- (1) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.
- (2) Planting plans shall be included that specify native plant species to be used, specimen quantities, and plant locations.
- (3) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

FIRST READING:

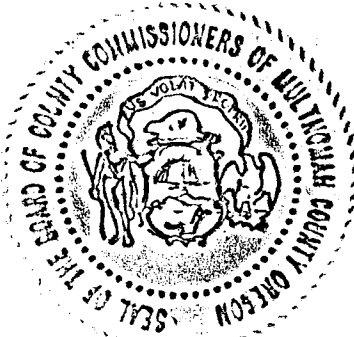
May 18, 2000

SECOND READING:

June 1, 2000

THIRD READING AND ADOPTION:

June 15, 2000



REVIEWED:

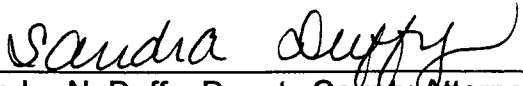
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