

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. 922

4
5 An Ordinance amending the Multnomah County Zoning Ordinance regarding
6 the provisions for large fill operations.

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8 (Language in ~~strikethrough~~ is to be deleted; underlined language is new)

9
10 Multnomah County Ordains as follows:

11
12 Section I. Findings

13
14 (A) The Planning Commission initiated discussion regarding large fill operations
15 currently being operated in the unincorporated area of Multnomah County that were
16 receiving large numbers of complaints by surrounding property owners.

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18 (B) On April 6, 1998 and May 18, 1998 the Planning Commission held work
19 sessions on large fill operations and came up with conceptual language to regulate
20 such uses. The Planning Commission directed Staff to draft ordinance language to
21 implement the standards proposed.

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23 (C) The Staff brought ordinance language to a public hearing before the Planning
24 Commission on July 20, 1998 and a meeting on August 3, 1998 with the following
25 purposes:

- 26
27 (1) To address the current problem of large fill areas and sites which have
28 been largely unregulated;
29 (2) Minimize potentially adverse effects on the public and property
30 surrounding the fill site;
31 (3) Acknowledge that natural resources can be impacted by large fill sites;

- 1 (4) Distinguish large fills as a temporary use dependent to a large degree
- 2 upon market conditions and resource size and that reclamation and the
- 3 potential for future use of the land for other activities must also be
- 4 considered;
- 5 (5) Provide clear and objective standards by which these uses will be
- 6 reviewed;
- 7 (6) Recognize that large fills areas should not impede future uses otherwise
- 8 allowed under the Comprehensive Framework Plan-;
- 9 (7) To be consistent with state rules which do not currently list large fill
- 10 sites as a use in farm and forest resource zones; and
- 11 (8) To clarify that at the time of adoption of this ordinance, Multnomah
- 12 County has not made the determination that the use of large fills would
- 13 or would not be consistent with other uses allowed in the farm and forest
- 14 zones due to the fact that they are not uses allowed under state rules.

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16 Section II. Amendment of the Multnomah County Zoning Code MCC 11.15

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18 MCC 11.15.0005 - Definitions

19 Large fill – The addition of more than 5,000 cubic yards of material to a site.

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22 **Multiple Use Agriculture MUA-20 11.15.2122**

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25 **11.15.2132 Conditional Uses**

26 The following uses may be permitted when found by the approval authority to
27 satisfy the applicable ordinance standards:

- 28 (A) Community Service Uses pursuant to the provisions of MCC .7005 through
- 29 .7041;
- 30 *[Amended 1982, Ord. 330 § 2]*

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(D) Large Fills as provided for in MCC 11.15.7350.

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Rural Residential RR 11.15.2212

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11.15.2212 Conditional Uses

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

(A) Community Service Uses under the provisions of MCC .7005 through .7041. *[Amended 1982, Ord. 330 § 2]*

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(C) Large Fills as provided for in MCC 11.15.7350.

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Rural Center RC 11.15.2242

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11.15.2252 Conditional Uses

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041 *[Amended 1982, Ord. 330 § 2]*

* * *

(E) Large Fills as provided for in MCC 11.15.7350.

* * *

Conditional Use – Large Fills

11.15.7350 Purposes

The purpose of the Large Fills section is to address the need for large fill sites in the unincorporated area of Multnomah County while protecting the rural

- 1 character and natural resources of the County. These regulations are designed to:
2 (A) To address the current problem of large fill areas and sites which have been
3 largely unregulated;
4 (B) Minimize potentially adverse effects on the public and property surrounding
5 the fill site;
6 (C) Acknowledge that natural resources can be impacted by large fill sites;
7 (D) Distinguish large fills as a use dependent to a large degree upon market
8 conditions and resource size and that reclamation and the potential for future
9 use of the land for other activities must also be considered;
10 (E) Provide clear and objective standards by which these uses will be reviewed;
11 (F) Recognize that large fills areas should not impede future uses otherwise
12 allowed under the Comprehensive Framework Plan;
13 (G) To be consistent with state rules which do not currently list large fill sites as
14 a use in farm and forest resource zones; and
15 (H) To clarify that at the time of adoption of this ordinance, Multnomah County
16 has not made the determination that the use of large fills would or would not
17 be consistent with other uses allowed in the farm and forest zones due to the
18 fact that they are not uses allowed under state rules.

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20 **11.15.7355 Excluded Areas**

21 Large fills shall not be allowed in:

- 22 (A) Areas designated SEC-s;
23 (B) Other stream areas protected by other local, state and federal agencies;
24 (C) Jurisdictional wetlands which have not received fill permits from The
25 Army Corp of Engineers and Division of State Lands; or
26 (D) 100 year floodplains.

27 **11.15.7360 Application Information Required**

28 An application for a large fill site shall include the following:

- 29 (A) A scaled site plan showing the subject property and all uses, roads, parcels,
30 structures and water features within 1,500 feet of the fill area, when such
31 information can be gathered without trespass;

- 1 (B) A contour map at 5' intervals showing both existing and proposed contours
2 with datum ;
- 3 (C) A geotechnical report for the entire fill area. The report shall include but not
4 be limited to:
- 5 (1) methods of site preparation;
6 (2) specific fill methods to be used including techniques such as
7 benching and terracing;
8 (3) compaction methods;
9 (4) drainage analysis showing pre and post development runoff conditions
10 (5) underground drainage systems utilized for fill compaction shall have a
11 hydraulic analysis to determine the amount of water to be
12 accommodated;
13 (6) known landslides and other geologically unstable areas within 1,500 feet
14 surrounding the fill area; and
15 (7) an erosion control plan for year round protection of the fill site from
16 erosion. The plan should include erosion control measures for:
17 (a) Winter stabilization
18 (b) rainy season operations in spring & fall
19 (c) summer operations
20 (d) timelines for the various phases.
- 21 (D) Written findings demonstrating how the proposal complies with MCC
22 11.15.7365.
- 23 (E) A copy of the deed(s) to all parcels on which the fill site will be located.
- 24 (F) A written description of the project including specific timelines for all phases
25 and proposed hours of operation.
- 26 (G) Application materials required to comply with MCC 11.15.6720, .6725 and
27 .6730.
- 28 (H) A reclamation plan submitted by a licensed landscape architect
29 demonstrating that reclaimed surfaces conform with the natural landforms of
30 the surrounding terrain.
- 31 **11.15.7365 Criteria for Approval**
The approval authority shall find that:

1 (A) The applicant demonstrates that the property shall be capable of being used
2 as provided in the Comprehensive Plan and the underlying district after the
3 fill operation.

4 (B) The applicant has shown that the following standards can or will be met by a
5 specified date:

6 (1) Access and traffic.

7 (a) Prior to any filling activity, all on-site roads used in the fill
8 operation and all roads from the site to a public right-of-way shall
9 be designed and constructed to accommodate the vehicles and
10 equipment which will use them.

11 (b) All on-site and private access roads shall be paved or adequately
12 maintained to minimize dust and mud generation within 100 feet of
13 a public right-of-way.

14 (c) No material shall be tracked or discharged in any manner onto any
15 public right-of-way.

16 (d) The applicant shall submit a traffic management plan that identifies
17 impacts to existing County infrastructure and an assessment as to the
18 ability of the existing infrastructure to withstand increased traffic loading
19 and usage.. The County Engineer shall review the submitted plan and
20 shall certify, based on findings relating to the *Multnomah County*
21 *Rules for Street Standards*, that the road(s) identified in the plan:

22 (i) Are suitable for all additional traffic created by the fill
23 operation for the duration of the activity, or

24 (ii) If the roads are unsuitable for all additional traffic created by
25 the fill operation for the duration of the activity that:

- 26 • The applicant has committed to finance installation of the
27 necessary improvements under the provisions of 02.200(a) or
28 (b) of the *Multnomah County Rules for Street Standards*, and
- 29 • A program has been developed for the number and weight of
30 trucks that can safely be accommodated at specific levels of
31 road improvement. Based upon those findings, the Hearing

1 Authority may attach related conditions and restrictions to
2 the conditional use approval.

3 (e) Truck movements related to the dumping of materials shall occur
4 entirely on-site and not utilize the public right-of-way or private
5 easements.

6 (f) Proposals in proximity to state highway facilities need to be
7 reviewed by the Oregon Department of Transportation.

8 (2) Buffer requirements.

9 (a) All existing vegetation and topographic features which would
10 provide screening and which are within 100 feet of the proposed
11 area of fill shall be preserved. The applicant shall demonstrate that
12 the existing screening is sufficient to ensure the project site will not
13 noticeably contrast with the surrounding landscape, as viewed from
14 an identified viewing areas, neighboring properties, or accessways,
15 or;

16 (b) If existing vegetation and topography is insufficient to obscure the
17 site from neighboring properties, accessways or identified key
18 viewing areas, the applicant shall propose methods of screening and
19 indicate them on a site plan. Examples of screening methods
20 include landscape berms, hedges, trees, walls, fences or similar
21 features. All required screening shall be in place prior to
22 commencement of the fill activities.

23 (c) The Approval Authority may grant exceptions to the screening
24 requirements if:

25 (i) The proposed fill area, including truck line-up area and fill
26 areas are not visible from any neighboring properties, key
27 viewing areas and accessways identified in (b) above, or

28 (ii) Screening will be ineffective because of the topographic
29 location of the site with respect to surrounding properties.

30 (3) Signing.

31 One directional sign for each point of access to each differently named

1 improved street may be allowed for any operation. Signing shall be
2 specified and controlled by the standards of MCC 11.15.7974.

3 (4) Timing of Operation

4 (a) Hours of operation shall be specified on each application. At a
5 maximum operating hours shall be allowed from 7:00 am to 6:00
6 pm. Large fills shall not operate on Sundays or on New Year's Day,
7 Memorial Day, July 4th, Labor Day, Thanksgiving Day, and
8 Christmas Day.

9 (b) The placement of fill materials shall not occur from October 1st –
10 May 1st.

11 (5) Air, water, and noise quality.

12 (a) The applicant shall obtain and comply with the standards of all
13 applicable permits from the Department of Environmental Quality.
14 Copies of all required permits shall be provided to Multnomah
15 County prior to beginning filling. If no permits are required, the
16 application shall provide written conformation of that from the
17 Department of Environmental Quality.

18 (b) Sound generated by an operation shall comply with the noise
19 control standards of the Department of Environmental Quality.
20 Compliance with the standards may be demonstrated by the report
21 of a certified engineer.

22 (6) Minimum Setbacks.

23 (a) For filling activities the minimum setback shall be:
24 100 feet to a property line, or if multiple parcels, to the outermost
25 property line of the site.

26 (b) For access roads and residences located on the same parcel as the
27 filling or processing activity, setbacks shall be as required by the
28 underlying district.

29 (7) Reclaimed Topography.

30 All final reclaimed surfaces shall be stabilized by ground control
31 methods as specified by the landscape architect. Reclaimed surfaces

1 shall conform with the natural landforms of the surrounding terrain.

2 (8) Safety and security.

3 Safety and security measures, including fencing, gates, signing, lighting,
4 or similar measures, shall be provided to prevent public trespass and
5 minimize injury in the event of trespass to identified hazardous areas
6 such as steep slopes, water impoundments, or other similar hazards .

7 (9) Phasing program.

8 Each phase of the operation shall be reclaimed within the time frame
9 specified in subsection (11) or as modified in the decision.

10 (10) Timeline

11 Timelines for Large fill Conditional Use Permits shall conform with the
12 2-year period pursuant to MCC 11.15.7110(C), unless otherwise
13 approved by the Approval Authority. The applicant may request a
14 longer time period for completion as part of the initial application. If an
15 approval has been issued, the applicant may request a longer time period
16 for completion pursuant to MCC 11.15.8240 (E).

17
18 If completion of a large fill project extends beyond 2 years pursuant to
19 MCC 11.15.7110(C), the applicant shall submit an engineering report
20 prepared and signed by a licensed engineer at least once per year by
21 October 31, or as otherwise specified by the Approval Authority. The
22 engineering report shall describe at a minimum the following:

23
24 (a) the amount of fill added to the site since the start of the fill or the last
25 engineering report and stability measures used and planned for the new
26 fill.

27
28 (b) future fill locations within the approved site and stability measures
29 planned both within and outside the fill site.

30
31 (c) incidents of landslide or other instability within and outside the fill

1 site, clean-up efforts for these incidents, and measures used and planned
2 to prevent future incidents.

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4 (11) Reclamation Schedule.

5 (a) Reclamation shall begin within twelve (12) months after fill activity
6 ceases on any segment of the project area. Reclamation shall be
7 completed within three (3) years after all filling ceases, except where
8 the Approval Authority finds that these time standards cannot be
9 met.

10 (b) The owner shall provide an acceptable guarantee of financial surety
11 to the County prior to beginning work. The applicant shall provide
12 an estimate of the cost to implement the approved plan. Estimated
13 costs shall be based upon the current local construction costs. The
14 financial guarantee shall be 150 percent of the estimated cost to
15 complete the plan. The financial guarantee may be reduced to 125
16 percent of the cost in cases where the property owner has a written
17 contract with a contractor to guarantee completion of the work which
18 has been reviewed and approved by the County. All such contracts
19 are subject to review by the County. Prior to release of the financial
20 guarantee, the applicant shall submit a report from a licensed
21 professional engineer whose main area of expertise is geotechnical
22 engineering to the County, approving the construction and
23 reclamation and certifying its completion.

24 **11.15.7370 Monitoring**

25 The Planning Director shall periodically monitor all fill operations. The dates and
26 frequency of monitoring shall be determined by the Approval Authority based
27 upon the number and type of surrounding land uses and the nature of the fill
28 operation. If the Director determines that a fill operation is not in compliance with
29 the approval, enforcement proceedings pursuant to MCC 11.15.9052 or as
30 deemed appropriate by the Multnomah County Counsel shall be instituted to
31 require compliance.

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For multiple year projects, prior to commencement of material placement in the spring, an engineers report shall be submitted detailing the condition of the fill after the rainy season. The report shall include any remediation needed and any necessary modifications to fill placement due to failure, slumpage, slides, etc.

ADOPTED this 10th day of December, 1998, being the date of its second reading before the Board of County Commissioners of Multnomah County.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein

Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By *Jeffrey B. Litwak*

Jeffrey B. Litwak, Assistant County Counsel