

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR MULTNOMAH COUNTY, OREGON

3 ORDINANCE NO. 785

4
5 An Ordinance amending the Multnomah County Code Chapter 11.15 Hillside
6 Development and Erosion Control regulations to require a 100-foot area of undisturbed natural
7 vegetation between proposed grading and land disturbing activities and a stream, water body,
8 or wetland.

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

10 Multnomah County Ordains as follows:

11 Section I. Findings.

12 (A). The grading and erosion control permit standards contained in the Hillside
13 Development and Erosion Control subsection of the zoning code (MCC 11.15.6700 - .6735)
14 were adopted to comply with the purposes of (1) the Oregon Statewide Planning Goal Number
15 6: Air, Water and Land Resources Quality, (2) the Multnomah County Comprehensive
16 Framework Plan Policy 13: Air, Water and Noise Quality, and (3) the 1989 Oregon
17 Administrative Rules subsection 340 requiring affected Counties to put into place
18 implementing Ordinances for controlling erosion and storm water runoff in the Tualatin River
19 Drainage Basin.

20 (B). The erosion control permit standards were first adopted on February 20, 1990
21 (Ordinance Number 643) and were last amended on November 26, 1991 with the addition of
22 some language specific to the Tualatin Basin (Ordinance Number 705).

23 (C). It is in accordance with Comprehensive Framework Plan Policy 13 to "maintain
24 healthful ground and surface water resources" that this ordinance is adopted. This Ordinance
25 will apply erosion control requirements near all streams, water bodies, and wetlands equivalent
26 to the requirements presently in place for lands within the Tualatin Basin.

1 Section II. Amendments.

2 Multnomah County Code Chapter 11.15 is amended to read as follows:

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4 **11.15.6710 Permits Required**

5 (A) **Hillside Development Permit:** All persons proposing development, construction, or
6 site clearing (including tree removal) on property located in hazard areas as identified
7 on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall
8 obtain a Hillside Development Permit as prescribed by this subdistrict, unless
9 specifically exempted by MCC .6715.

10 (B) **Grading and Erosion Control Permit:** All persons proposing site grading :

11 (1) [w] Where the volume of soil or earth material disturbed, stored, disposed of or
12 used as fill exceeds 50 cubic yards, or

13 (2) [w] Which obstructs or alters a drainage course, or

14 (3) Which takes place within 100 feet by horizontal measurement from the top of the
15 bank of a watercourse, the mean high watermark (line of vegetation) of a body of
16 water, or within the wetlands associated with a watercourse or water body,
17 whichever distance is greater

18 shall obtain a Grading and Erosion Control Permit as prescribed by this subdistrict,
19 unless exempted by MCC .6715(B)(2) through (6 [8]) or .6715(C). Development
20 projects subject to a Hillside Development Permit do not require a separate Grading and
21 Erosion Control Permit.

22 (C) **Grading and Erosion Control Permit:** All persons proposing land-disturbing
23 activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a
24 Grading and Erosion Control Permit, except as provided by MCC 11.15.6715(C)
25 below.

1 **11.15.6715 Exempt Land Uses and Activities**

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

3 (A) Development activities approved prior to February 20, 1990; except that within such a
4 development, issuance of individual building permits for which application was made
5 after February 20, 1990 shall conform to site-specific requirements applicable herein.

6 (B) General Exemptions – Outside the Tualatin River and Balch Creek Drainage Basins, all
7 land-disturbing activities outlined below shall be undertaken in a manner designed to
8 minimize earth movement hazards, surface runoff, erosion, and sedimentation and to
9 safeguard life, limb, property, and the public welfare. A person performing such
10 activities need not apply for a permit pursuant to this subdistrict, if :

- 11 (1) Natural and finished slopes will be less than 25 %; and,
- 12 (2) The disturbed or filled area is 20,000 square feet or less; and,
- 13 (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
- 14 (4) Rainwater runoff is diverted, either during or after construction, from an area
15 smaller than 10,000 square feet; and,
- 16 (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,
- 17 (6) No drainageway is to be blocked or have its stormwater carrying capacities or
18 characteristics modified . [; and,]

19 [(7) The activity will not take place within 100 feet by horizontal measurement from the
20 top of the bank of a watercourse, the mean high watermark (line of vegetation) of a
21 body of water, or within the wetlands associated with a watercourse or water body,
22 whichever distance is greater.]

23 (C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through (6 [7]),
24 the following activities are exempt from the permit requirements, except that in the
25 Tualatin River Drainage Basin, activities which effect water quality shall require a
26 Permit pursuant to OAR 340-41-455(3):

- 1 (1) An excavation below finished grade for basements and footings of a building,
2 retaining wall, or other structure authorized by a valid building permit. This shall not
3 exempt any fill made with the material from such excavation, nor exempt any
4 excavation having an unsupported finished height greater than five feet.
- 5 (2) Cemetery graves, but not cemetery soil disposal sites.
- 6 [(3) Refuse disposal sites controlled by other regulations. Sites in the Tualatin Basin
7 shall require Erosion Control Plans for exposed areas consistent with OAR 340-41-
8 455(3).]
- 9 (~~3~~ [4]) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion
10 Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).
- 11 (~~4~~ [5]) Mineral extraction activities as regulated by MCC .7305 through .7335, except
12 that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or
13 exposed areas consistent with OAR 340-41-455(3).
- 14 (~~5~~ [6]) Exploratory excavations under the direction of certified engineering geologists or
15 geotechnical engineers.
- 16 (~~6~~ [7]) Routine agricultural crop management practices. [,]
- 17 (7) [r] Residential gardening and landscape maintenance at least 100-feet by horizontal
18 measurement from the top of the bank of a watercourse, or the mean high watermark
19 (line of vegetation) of a body of water or wetland.
- 20 (8) Emergency response activities intended to reduce or eliminate an immediate danger
21 to life, property, or flood or fire hazards.
- 22 (9) Forest practices as defined by ORS 527 (State Forest Practices Act) and approved by
23 the Oregon Department of Forestry.

24 **11.15.6730 Grading and Erosion Control Permit Standards**

25 Approval of development plans on sites subject to a Grading and Erosion Control Permit shall
26 be based on findings that the proposal adequately addresses the following standards.

1 Conditions of approval may be imposed to assure the design meets the standards:

2 (A) Design Standards For Grading and Erosion Control

3 (1) Grading Standards

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

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

11 (c) Cuts and fills shall not endanger or disturb adjoining property;

12 (d) The proposed drainage system shall have adequate capacity to bypass through
13 the development the existing upstream flow from a storm of 10-year design
14 frequency;

15 (e) Fills shall not encroach on natural watercourses or constructed channels unless
16 measures are approved which will adequately handle the displaced streamflow
17 for a storm of 10-year design frequency;

18 (2) Erosion Control Standards

19 (a) On sites within the Tualatin River Drainage Basin, erosion and stormwater
20 control plans shall satisfy the requirements of OAR 340. Erosion and
21 stormwater control plans shall be designed to perform as prescribed by the
22 "*Erosion Control Plans Technical Guidance Handbook*" and the "*Surface*
23 "*Water Quality Facilities Technical Guidance Handbook*". Land-disturbing
24 activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer
25 from the top of the bank of a stream, or the ordinary high watermark (line of
26 vegetation) of a water body, or within 100-feet of a wetland; unless a

1 mitigation plan consistent with OAR 340 is approved for alterations within the
2 buffer area.

3 (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a
4 manner which will minimize soil erosion, stabilize the soil as quickly as
5 practicable, and expose the smallest practical area at any one time during
6 construction;

7 (c) Development Plans shall minimize cut or fill operations and ensure conformity
8 with topography so as to create the least erosion potential and adequately
9 accommodate the volume and velocity of surface runoff;

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

12 (e) Whenever feasible, natural vegetation shall be retained, protected, and
13 supplemented;

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

17 (ii) The buffer required in (i) may only be disturbed upon the approval of a
18 mitigation plan which utilizes erosion and stormwater control features
19 designed to perform as effectively as those prescribed in the “Erosion
20 Control Plans Technical Guidance Handbook” and the “Surface Water
21 Quality Facilities Technical Guidance Handbook” and which is consistent
22 with attaining equivalent surface water quality standards as those
23 established for the Tualatin River Drainage Basin in OAR 340;

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

26 (g) Provisions shall be made to effectively accommodate increased runoff caused

1 by altered soil and surface conditions during and after development. The rate
2 of surface water runoff shall be structurally retarded where necessary;

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

5 (i) Provisions shall be made to prevent surface water from damaging the cut face
6 of excavations or the sloping surface of fills by installation of temporary or
7 permanent drainage across or above such areas, or by other suitable
8 stabilization measures such as mulching or seeding;

9 (j) All drainage provisions shall be designed to adequately carry existing and
10 potential surface runoff to suitable drainageways such as storm drains, natural
11 watercourses, drainage swales, or an approved drywell system;

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

14 (l) Erosion and sediment control devices shall be required where necessary to
15 prevent polluting discharges from occurring. Control devices and measures
16 which may be required include, but are not limited to:

17 (i) Energy absorbing devices to reduce runoff water velocity;

18 (ii) Sedimentation controls such as sediment or debris basins. Any trapped
19 materials shall be removed to an approved disposal site on an approved
20 schedule;

21 (iii) Dispersal of water runoff from developed areas over large undisturbed
22 areas.

23 (m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding
24 into streams or drainageways by applying mulch or other protective covering;
25 or by location at a sufficient distance from streams or drainageways; or by
26 other sediment reduction measures;

1 (n) Such non-erosion pollution associated with construction such as pesticides,
2 fertilizers, petrochemicals, solid wastes, construction chemicals, or
3 wastewaters shall be prevented from leaving the construction site through
4 proper handling, disposal, continuous site monitoring and clean-up activities.

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

14 (B) Responsibility

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

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

24 (C) Implementation

25 (1) Performance Bond – A performance bond may be required to assure the full cost of
26 any required erosion and sediment control measures. The bond may be used to

1 provide for the installation of the measures if not completed by the contractor. The
2 bond shall be released upon determination the the control measures have or can be
3 expected to perform satisfactorily. The bond may be waived if the Director
4 determines the scale and duration of the project and the potential problems arising
5 therefrom will be minor.

6 (2) Inspection and Enforcement. The requirements of this subdistrict shall be enforced
7 by the Planning Director. If inspection by County staff reveals erosive conditions
8 which exceed those prescribed by the Hillside Development Permit or Grading and
9 Erosion Control Permit, work may be stopped until appropriate correction
10 measures are completed.

11 (D) Final Approvals

12 A certificate of Occupancy or other final approval shall be granted for development
13 subject to the provisions of this subdistrict only upon satisfactory completion of all
14 applicable requirements.

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16 Section III. Adoption.

17 ADOPTED THIS 11th day of January, 1994, being the date of its
18 2nd reading before the Board of County Commissioners of Multnomah County.



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By Beverly Stein
Beverly Stein
Multnomah County Chair

REVIEWED:

JOHN DUBAY, CHIEF ASSISTANT COUNTY COUNSEL
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By John Dubay