

# ATTACHMENT A.4

## CHAPTER 39 – MULTNOMAH COUNTY ZONING CODE (Large Fill Permit)

*The following text is used within the proposed amendments:*

Double Underline = Proposed new language

~~Strikethrough~~ = Language proposed for removal

Blue double underlined and ~~blue strikethrough~~ text = changes since the July 2, 2018 PC Worksession

### CHAPTER 39 – MULTNOMAH COUNTY ZONING CODE

#### PART 7 - Conditional Uses and Community Service Uses

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#### 7.A.2 – Large Fills (CU)

##### 39.7200 [ 34.6700] Purposes

The purpose of the Large Fills regulations this Subpart 7.A.2 is to address ~~balance~~ the need for large fill sites in the unincorporated area of Multnomah County while protecting the rural character and natural resources of the County of that area and the public health, safety and welfare in that area. These regulations are designed to:

- ~~(A) To address the current problem of large fill areas and sites which have been largely unregulated;~~
- ~~(A)B~~ Minimize potentially adverse effects on the public and property surrounding the fill site;
- ~~(B)C~~ Acknowledge that natural resources can be impacted by large fill sites;
- ~~(C)D~~ Distinguish large fills as a use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities shall also be considered;

~~(D)~~ Provide clear and objective standards by which these uses will be reviewed;

~~(E)~~ Recognize that large fill areas should not impede future uses otherwise allowed under the Comprehensive Plan;

~~(F)~~ ~~To be~~ consistent with state rules, which do not currently list large fill sites as a use in farm and forest resource zones;

~~(H)~~ ~~To clarify that at the time of adoption of Ordinance 922, (1998), Multnomah County has not made the determination that the use of a large fill would or would not be consistent with other uses allowed in the farm and forest zones due to the fact that they are not uses allowed under state rules; and~~

~~(I)~~ ~~To clarify that, at the time of adoption of Ordinance 1038, (2004), it has been determined by Multnomah County that fills associated with the construction of a State or County owned and maintained roads and bridges that are designated as a Rural Collector or Rural Arterial on the Functional Classification of Trafficways map shall not be a Large Fill, regardless of the quantity of fill material on a site. It is further determined that fills that are in conjunction with and part of approved transportation projects are an allowed use in the Exclusive Farm Use base zone under state rules.~~

### **39.7203 Permit Required**

Unless specifically exempted under MCC 39.7207, no large fill (as defined in MCC 39.2000) shall occur except pursuant to a Large Fill permit.

### **39.7205 [34.6705] Excluded Areas**

Large fills shall not be allowed in:

(A) ~~In~~ ~~A~~ areas designated SEC (general), SEC-s, SEC-w, ~~or~~ SEC-wr, or WRG;

(B) ~~In~~ ~~O~~ other stream areas protected by other local, state and federal agencies;

(C) On Jurisdictional wetlands which have not been approved for fill by received fill permits from ~~T~~ the Army Corp of Engineers and Division of State Lands; ~~or~~

(D) In 100 year floodplains; or

(E) On high-value farm land as defined in MCC 39.4210.

### **39.7207 Exemptions**

Ground disturbing activity occurring in association with the following uses is exempt from the Large Fill permit requirements:

(A) Fill associated with a State or County owned and maintained road or bridge that is designated as a Rural Collector or a Rural Arterial on the Multnomah County Functional Classification of Trafficways map. The Trafficways map is part of the County Transportation System Plan.

(B) Agricultural fill authorized under an Agricultural Fill permit. Agricultural fill proposed in the Geological Hazards overlay is not eligible for this exemption.

**39.7210 [34.6710] Application Information Required**

An application for a Large Fill permit ~~large fill site~~ shall include two copies of each of the following:

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

(A) A scaled site plan showing the following, both existing and proposed:

(1) Property lines;

(2) Uses, buildings, structures, driveways, roads and right-of-way boundaries, fencing, gates, signs, lighting, and sound generating equipment;

(3) Location of wells, utility lines, site drainage measures, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

(4) Trees and vegetation proposed for removal and planting and an outline of wooded areas;

(5) Water bodies, landslides, or other geologically unstable areas within 1,500 feet of any disturbed area;

(6) Boundaries of ground disturbing activities;

(7) Screening vegetation and any other screening methods including topography;

(8) Storage location and proposed handling and disposal methods for potential sources of non-erosion pollution including pesticides, fertilizers, petrochemicals, solid waste, construction chemicals, and wastewaters;

(9) Soil types; and

(10) Erosion and sediment control measures.

(B) A contour map at 5' intervals showing both existing and proposed contours with datum;

(C) A geotechnical report for the site fill area. The report shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer and include but not be limited to:

(1) Methods of site preparation;

(2) Specific fill methods to be used including techniques such as benching and terracing;

(3) Compaction methods;

(4) Drainage analysis showing pre and post development runoff conditions;

(5) ~~A hydraulic analysis of~~ Underground drainage systems utilized for fill compaction shall have a hydraulic analysis to determine the amount of water to be accommodated;

(6) ~~Known~~ Landslides and other geologically unstable areas within 1,500 feet surrounding the disturbed fill area; and

(7) An erosion and sediment control plan for year round protection of the fill site from erosion and sedimentation. The plan should include erosion and sediment control measures and timelines for:

(a) Winter stabilization;

(b) Rainy season operations in spring and fall;

(c) Summer operations;

(d) ~~Timelines~~ Areas of the site to be used for the various phases;

(8) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards).

(D) ~~A~~ Written description of the project including:

(1) An explanation ~~Written findings~~ demonstrating how the proposal complies with MCC 39.7215;

(2) Specific timelines for all phases of the fill;

(3) Proposed hours of operation;

(4) The sound that will be generated by the fill operation; and

(5) Statement of the total daily number of fill haul truck trips, travel timing, loaded haul truck weight, and haul truck travel route(s) to be used from any fill source(s) to the fill deposit site.

(E) A copy of the deed(s) to all lots of record for the large fill site ~~parcels on which the fill site will be located;~~

~~(F) A written description of the project including specific timelines for all phases and proposed hours of operation;~~

~~(F)~~ G Application materials required to comply with MCC 39.5085 and 39.5090 (Geologic Hazards);

~~(G)~~ H A reclamation plan submitted by a licensed landscape architect demonstrating that reclaimed surfaces conform with the natural landforms of the surrounding terrain and including an estimate of the cost to implement the plan based on the current local construction costs.

(H) Written documentation of:

(1) Approval of any new stormwater discharges into public right-of way by each governing agency having authority over the matter.

(2) Approval of any new stormwater surcharges to sanitary drainfields by the City of Portland Sanitarian and any other agency having authority over the matter.

(3) Any required permit from the Department of Environmental Quality or written confirmation from the Department of Environmental Quality that no permits are required.

(I) A traffic management plan that identifies impacts of fill haul trucks to existing County infrastructure and an assessment as to the ability of the existing infrastructure to withstand increased traffic loading and usage.

**39.7215 [34.6715] Criteria for Approval Large Fill Permit Standards**

A Large Fill permit shall not be issued unless the application for such permit establishes compliance with MCC 39.5085, 39.5090, 39.6210 and satisfaction of the following standards ~~The approval authority shall find that:~~

(A) The applicant demonstrates that the ~~site property shall be~~ is capable of being used as provided in the Comprehensive Plan and the base zone after the fill operation.

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

(1) Access and traffic.

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

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

(c) Fill trucks shall be constructed, loaded, covered, or otherwise managed to prevent any of their load from dropping, sifting, leaking, or otherwise escaping from the vehicle. No material shall be tracked or discharged in any manner onto any public right-of-way.

~~(d) The applicant shall submit a traffic management plan that identifies impacts to existing County infrastructure and an assessment as to the ability of the existing infrastructure to withstand increased traffic loading and usage.~~ The County Engineer shall review the submitted traffic management plan and ~~shall determine whether to find~~ certify, based on findings relating to the Multnomah County Road Rules and Design and Construction Manual, ~~that the road(s) identified in the plan:~~

1. No transportation impact, or Are suitable for all additional traffic created by the fill operation for the duration of the activity, or

2. If a transportation impact occurs as a result of the proposal, the impact shall be mitigated in accordance with the Multnomah County Road Rules and Design and Construction Manual and in accordance with the following: ~~If the roads are unsuitable for all additional traffic created by the fill operation for the duration of the activity that:~~

~~A.i.~~ The applicant ~~has~~ must committed to finance installation of the necessary improvements under the provisions of ~~02.200 (a) or (b)~~ of the Multnomah County Road Rules and Design and Construction Manual, and

~~B.ii.~~ The applicant must develop a program traffic management plan ~~has been developed~~ for the number and weight of trucks that can safely be accommodated at specific levels of road improvement. Based upon a finding of impact ~~these findings~~, the approval authority ~~Hearing Authority~~ may attach related conditions and restrictions to the conditional use approval.

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

(f) ~~Proposals in proximity to~~ If the proposed disturbed area is within 500 feet of Oregon Department of Transportation right-of-way or railroad right of way state highway facilities, notice of the proposal shall be forwarded by Multnomah County to ~~need to be reviewed by~~ the Oregon Department of Transportation.

(2) Buffer requirements.

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

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

(c) The ~~A~~approval ~~A~~authority may grant exceptions to the screening requirements if:

1. The proposed fill area, including truck line-up area and fill areas are not visible from any neighboring properties, key viewing areas and accessways identified in (b) above, or
2. Screening will be ineffective because of the topographic location of the site with respect to surrounding properties.

(3) Signing.

One directional sign for each point of access to each differently named improved street may be allowed for any operation. Signing shall be specified and controlled by the standards of MCC 39.6805.

(4) Timing of Operation.

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

(b) The placement of fill materials shall not occur from October 1<sup>st</sup> - May 1<sup>st</sup>.

(5) Air, water, and noise quality.

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

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

(c) Fill generated by dredging may be deposited on Sauvie Island only to assist in flood control or to improve a farm's soils or productivity, except that it may not be deposited in any SEC overlay, WRG overlay, or designated wetland.

(6) Minimum Setbacks.

(a) For filling activities the minimum setback shall be 100 feet to a property line, or if multiple ~~parcels~~ lots of record, to the outermost property line of the site.

(b) For access roads and residences located on the same ~~parcel~~ site as the filling or processing activity, setbacks shall be as required by the base zone.

(7) Reclaimed Topography.

All final reclaimed surfaces shall be stabilized by ~~ground~~ erosion and sediment control methods as specified by the landscape architect. Reclaimed surfaces shall conform with the natural landforms of the surrounding terrain.

(8) Safety and security.

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

(9) Phasing program.

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

(10) Timeline.

~~Timelines for~~ Large fill Conditional Use ~~P~~ermits shall be for a two-year period, unless otherwise approved by the ~~A~~pproval ~~A~~uthority. The applicant may request a longer time period for completion as part of the initial application. If an approval has been issued, the applicant may request a longer time period for completion pursuant to the procedures for a Type III permit as described in Part 1 of this ~~Z~~oning ~~C~~ode.

If completion of a large fill project is approved to extends beyond two years, the applicant shall submit an engineering report prepared and signed by a licensed engineer at least once per calendar year by October 31, or as otherwise specified by the ~~A~~approval Aauthority. The engineering report shall describe at a minimum the following:

- (a) The ~~amount~~ volume of fill added to the site since the start of the fill or the last engineering report and stability measures used and planned for the new fill;
- (b) Future fill locations within the approved site and stability measures planned both within and outside the fill site;
- (c) Incidents of landslide or other instability within and outside the fill site, clean-up efforts for these incidents, and measures used and planned to prevent future incidents.

(11) Reclamation Schedule.

- (a) Reclamation shall begin within twelve (12) months after fill activity ceases on any segment of the fill ~~project~~-area. Reclamation shall be completed within three (3) years after all filling ceases, except where the ~~A~~approval Aauthority finds that these time standards cannot be met.
- (b) The owner shall provide an acceptable guarantee of financial surety to the County prior to beginning work. The applicant shall provide an estimate of the cost to implement the approved plan. Estimated costs shall be based upon the current local construction costs. The financial guarantee shall be 150 percent of the estimated cost to complete the plan. The financial guarantee may be reduced to 125 percent of the cost in cases where the property owner has a written contract with a contractor to guarantee completion of the work which has been reviewed and approved by the County. All such contracts are subject to review by the County. Prior to release of the financial guarantee, the applicant shall submit a report from a licensed professional engineer whose main area of expertise is geotechnical engineering to the County, approving the construction and reclamation and certifying its completion.

**39.7220 [34.6720]      Monitoring**

- (A) The ~~P~~lanning Director shall periodically monitor all fill operations. The dates and frequency of monitoring shall be determined by the ~~A~~approval Aauthority based upon the number and type of surrounding land uses and the nature of the fill operation. If the ~~D~~irector determines that a fill operation is not in compliance with the approval, enforcement proceedings pursuant to MCC 39.1510 or as deemed appropriate by the Multnomah County Attorney shall be instituted to require compliance.
- (B) For multiple year projects, prior to commencement of ~~material~~fill placement in the spring, an engineer's report shall be submitted no later than May 1 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.