

ATTACHMENT A.1

CHAPTER 39 – MULTNOMAH COUNTY ZONING CODE (Minimal Impact Project Permit Erosion and Sediment Control Permit, Agricultural Fill Permit and Stormwater Drainage Control)

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 November 5, 2018 PC Hearing

CHAPTER 39 – MULTNOMAH COUNTY ZONING CODE

PART 6 - COMMON DEVELOPMENT STANDARDS

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6.A - APPLICABILITY AND SCOPE

§ 39.6000 APPLICABILITY AND SCOPE

All development shall comply with all provisions in this Part 6, as well as all provisions of law regulating sewage disposal ~~the following as applicable:~~

~~(A) MCC 39.6210 through MCC 39.6235 (grading and erosion control).~~

~~(B) MCC 39.6235 (stormwater and drainage control).~~

~~(1) Stormwater and drainage control systems are required for impervious surfaces subject to MCC 39.6235.~~

~~(C) All provisions of Oregon law regulating on-site sewage disposal facilities for structures that include plumbing or otherwise.~~

~~(1) With respect to existing development, disposal of sewage may be controlled off-site in easement areas reserved for that purpose.~~

~~(D) MCC 39.6500 through MCC 39.6600 (parking, loading, and access).~~

~~(E) MCC 39.6700 through MCC 39.6820 (signs).~~

~~(F) MCC 39.6850 (outdoor lighting).~~

~~(G) MCC 39.6900 (Responses to an Emergency/Disaster Event).~~

6.B – GRADING GROUND DISTURBING ACTIVITY AND STORMWATER

§39.6200 [29.330] PURPOSES:

The purposes of the Grading and Erosion Control Standards this Subpart 6.B ~~are~~ is to regulate ground disturbing activity and the establishment or replacement of impervious surfaces in order to promote the public health, safety and general welfare; and to minimize the following risks potentially arising from ground disturbing activity or the establishment or replacement of impervious surfaces: public and private costs, expenses and losses; environmental harm; and human-caused erosion, sedimentation or landslides 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, OAR 340 41 455 for the Tualatin River Basin, and the County Comprehensive Plan policies pertaining to grading and erosion control. These standards are 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.~~

§39.6205 [29.331] EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this Subpart, the following definitions shall apply unless the context requires a different meaning. As used in this Subpart 6.B, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

BEST MANAGEMENT PRACTICES. Methods that have been determined to be the most effective, practical means of preventing or reducing erosion, sedimentation or landslides including but not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, and jute netting.

CUT.

(A) ~~An excavation;~~

(B) ~~The difference between a point on the original ground surface and the point of lowest elevation on the final grade;~~

(C) ~~The material removed in excavation work.~~

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 watercourse.~~

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.

(A) ~~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.~~

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

(C) ~~The material used to make a fill.~~

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.

MULCH. Organic materials, 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 stormwater, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH ~~WATER MARK~~ WATERMARK. 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~~ watermark shall be measured to include the entire stream feature.

SLOPE.

(A) ~~Any ground whose surface makes an angle from the horizontal; or~~

(B) ~~The face of an embankment or cut section.~~

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

SAME OWNERSHIP – Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control. For the purposes of this subpart, the seller of a property by sales contract shall be considered to not have possessory interest.

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 water bodies ~~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~~ water bodies. Topographic information shall be prepared by a registered ~~L~~and ~~s~~urveyor or a registered ~~p~~rofessional ~~e~~ngineer 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:

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

~~**WATER BODY.** Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.~~

~~**WATERCOURSE.** 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.~~

§39.6210 [29.336] PERMITS REQUIRED.

(A) Unless exempt under this Code, whether under MCC 39.6215, 39.5080, 38.5510 or otherwise, no ground disturbing activity shall occur except pursuant to one of the following permits: a Minimal Impact Project (MIP) permit, an Erosion and Sediment Control permit (ESC), an Agricultural Fill permit (AF), a Geologic Hazards permit (GH), or a Large Fill permit (LF).

(B) The permits referenced in subsection (A) are required in addition to and not in lieu of any other local, state or federal permit, including but not limited to permits required for ground disturbing activities within a water body regulated by the Oregon Department of State Lands, the U.S. Army Corps of Engineers or the Oregon Department of Fish and Wildlife.

(C) No ground disturbing activity shall occur except in support of a lawfully established use or in support of the lawful establishment of a use.

(D) No permit identified in subsection (A) shall be issued in any case where the planning director or a building official determines that the proposed ground disturbing activity will be hazardous by reason of flood, geological hazard, seismic hazard, or unstable soils; or is liable to endanger any other adjacent property; or result in the deposition of debris on any public right-of-way or property or water body; or otherwise create a nuisance.

(E) Responsibility. For any ground disturbing activity authorized under a permit listed in subsection (A):

(1) Whenever sedimentation is caused by ground disturbing activity, the person, corporation or other entity shall be responsible to remove that sedimentation 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 ground disturbing activity on, in, under or around a water body, or the floodplain or right-of-way, to maintain as nearly as possible in its present state the water body, floodplain, or right-of-way during such activity, and to return the

same to a functional condition equal to or better than the condition existing immediately prior to the ground disturbing activity.

(F) Implementation.

(1) Performance bond. A performance bond may be required in the amount of the full cost of the establishment and maintenance of all erosion, sedimentation and stormwater control measures for activity authorized through any permit listed in subsection (A). 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 Part 6, Geologic Hazards permit requirements, and Large Fill permit requirements, 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 subpart of MCC Chapter 39 shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the permit, work may be stopped until appropriate correction measures are completed.

(G) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subpart of MCC Chapter 39 only upon satisfactory completion of all applicable requirements.

(A) All Ground-disturbing activities, which are not determined to be exempt through the provisions of MCC 39.6215, shall be authorized either through a Minimal Impact Project (MIP) Permit or a Grading and Erosion Control (GEC) Permit as outlined in the table below.

The proposal qualifies for Minimal Impact Project review only if <i>all</i> of the following are met:	A Grading and Erosion Control Permit is required if <i>any</i> of the following triggers are met:
Less than or equal to 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; and	More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or
Areas disturbed are not 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; and	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

Slopes before development are less than or equal to 10 percent (10 Horizontal: 1 Vertical); and	Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or
Unsupported finished slopes will be less than or equal to 33 percent (3 Horizontal: 1 Vertical) grade and are less than or equal to five feet in height; and	Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and greater than five feet in height; or
No Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water body.	Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water body.

(B) Development projects subject to a Geologic Hazards permit regulated under MCC Part 5.2 & MCC 38.5500-38.5525 do not require a separate Minimal Impact Project Permit or Grading and Erosion Control Permit.

(C) Projects qualifying as a Large Fill Conditional Use are regulated by the provisions of MCC Part 7 (39.7200—39.7220) and do not require a separate Minimal Impact Project Permit or Grading and Erosion Control Permit.

§39.6215 [29.339] EXEMPTIONS FROM MINIMAL IMPACT PROJECT PERMIT AND EROSION AND SEDIMENT CONTROL PERMIT LAND USES AND ACTIVITIES.

Ground disturbing activity occurring in association with The following uses ~~are~~ is exempt from the provisions of this Grading and Stormwater subpart of Chapter 39 and do not require either a Minimal Impact Project Permit or a Grading and Erosion Control and Sediment Control Permit requirements:

- (1A) 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.
- (4D) Mineral extraction activities as regulated by the county zoning code.
- (5E) Exploratory excavations under the direction of eCertified eEngineering gGeologists or gGeotechnical eEngineers.
- (6F) Routine agricultural management practices Farming practices other than filling or the placement of structures.
- (7G) Residential gardening disturbing less than 5,000 square feet of ground surface area and landscape maintenance disturbing less than 10,000 square feet of ground surface area when either activity is at least 100 feet by horizontal measurement from the top of the bank of any watercourse or the mean high watermark (line of vegetation) of a body of water or wetland. located at a lower elevation to and in the

surface drainage path of the ground disturbing activity. Landscape maintenance includes normal planting, transplanting, and replacement of trees and vegetation. Landscape maintenance does not include preparatory ground disturbing activity for a development project.

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

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

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

(K) Natural resource enhancement or restoration, but not including filling or placement of structures, pursuant to a conservation plan that is prepared by the local soil and water conservation district or the Oregon Natural Resources Conservation Service and accepted by the property owner. The conservation plan must be provided to the County before the commencement of any ground disturbing activity.

(L) Removal of trees or vegetation within 30-feet of a structure for fire safety.

(M) Decommissioning or replacing an underground storage tank(s), such as a septic, oil, or other similar tank(s), but not including a sanitary drainfield, provided that:

(a) Any contaminated excavated material is handled in accordance with law, whether through treatment, being transported to and deposited at an off-site facility certified and willing to accept the material, or other direction from the Oregon Department of Environmental Quality, and

(b) Any replacement tank(s) is placed in the same location as the tank(s) being replaced.

(N) Placement and replacement of mailbox posts, fence posts, sign posts, utility posts or poles, and similar support structures, but not including any post or pole that provides structural support to a building requiring a structural building permit.

(O) Trenching and boring for utilities in a public road right-of-way, provided such activity does not occur within 100-feet of a water body and is completed within 48-hours of commencement. Completion includes final compaction of earthen materials within any trench and removal and lawful disposal or deposit of any excess excavation or fill material from the site of the activity.

(P) Placement of gravel or asphalt for the maintenance of existing driveways, roads and other travel surfaces.

§ 39.62250 [29.333] MINIMAL IMPACT PROJECT PERMIT STANDARDS.

(A) An application for a Minimal Impact Project permit shall include two copies of each of the following:

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

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

(c) Location of wells, utility lines, stormwater disposal system, sanitary tanks and drainfields (primary and reserve);

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

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Ground topography contours (contour intervals no greater than 10-feet); and

(i) Erosion and sediment control measures.

(2) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed fill (cubic yards), existing slopes in areas proposed to be disturbed (percent slope), and proposed unsupported finished slopes (percent slope);

(3) Written description of the proposed project, including but not limited to:

(a) The use that the ground disturbing activity will support or help facilitate;

(b) The materials to be used for any proposed fill; and

(c) A description of the erosion and sediment control measures that will be used to ensure that visible or measurable erosion or sedimentation does not leave the site. For purposes of this subsection and subsection (B)(8) below, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(B) A Minimal Impact Project (MIP) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(1) Less than 10,000 square feet of ground surface area will be disturbed;

(2) Disturbed areas are not within 200’ by horizontal measurement from the top of the bank of a water body;

(3) Slopes before development where ground disturbing activity is proposed are 10 percent grade or less (10 Horizontal: 1 Vertical);

(4) Unsupported finished slopes will be less than 33 percent grade (3 Horizontal: 1 Vertical) and will not exceed four feet in height;

(5) The ground disturbing activity will involve less than 10 cubic yards of fill;

(6) Fill will not be used to physically support a building requiring a structural building permit;

(7) Fill shall be composed of earth materials only;

(8) Persons conducting ground disturbing activities shall utilize erosion and sediment control best management practices. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way, or be deposited into any water body or storm drainage system;

(9) Erosion and sediment control measures shall be installed prior to commencement of ground disturbing activity and are to be maintained, in working order, through all phases of development;

(10) Approval of any new stormwater discharges into public right-of-way is granted by each governing agency having authority over the matter;

(11) Approval of any new stormwater surcharges to sanitary drainfields is granted by the City of Portland Sanitarian and any other agency having authority over the matter;

(12) 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 fill shall be tracked or discharged in any manner onto any public right-of-way; and

(13) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required or exempt under this subchapter and Chapter 38:

~~(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.~~

§39.6220~~5~~ [29.342] EROSION AND SEDIMENT CONTROL PERMIT APPLICATION
INFORMATION REQUIRED.

(A) An application for an Erosion and Sediment Control permit development subject to the requirements of this Subbase zone shall include two copies of each of the following:

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

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

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

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

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Location for wash out and cleanup of concrete equipment;

(i) 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;

(j) Ground topography contours (contour intervals no greater than 10-feet); and

(k) Erosion and sediment control measures.

(2) Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut (cubic yards) and fill (cubic yards), total volume of fill that has been deposited on the site over the 20-year period preceding the date of application, and existing and proposed slopes in areas to be disturbed (percent slope). For purposes of this subsection, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area;

~~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.~~

(3) A written description of the ground disturbing activity and any associated development, including:

(a) Specific timelines for all phases of work;

~~(B) Calculations estimating the volume of all proposed cuts and fills; and~~

(b) With respect to fill:

(i) Description of fill materials, compaction methods, and density specifications (with calculations). The planning director may require additional studies or information or work regarding fill materials and compaction.

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

(c) A description of the use that the ground disturbing activity will support or help facilitate.

~~(4D) Narrative~~ Written findings, together with any supplemental plans, maps, reports, or other information, map or plan information necessary to demonstrate compliance of the proposal with the all applicable provisions of the county zoning code Multnomah County code including Erosion and Sediment Control permit standards in subsection (B). The application shall provide applicable supplemental Necessary reports, certifications, or plans relative may pertain to: engineering, soil characteristics, stormwater drainage control, stream protection, erosion and sediment control, and/or replanting.; and

~~(E) 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;~~

~~(52) Approval of any new stormwater~~ Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or and any other agencyies having authority over the matter authorized to review waste disposal systems; and

~~(63) Approval of A~~ any new stormwater discharges into public right-of-ways have complied with by the each governing agencyies having authority over the matter discharge review process.

~~§39.6230 [29.345] — GRADING AND EROSION CONTROL PERMIT STANDARDS.~~

(B) An Erosion and Sediment Control (ESC) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following 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) General Grading standards.~~

(1) The total cumulative deposit of fill, excluding agricultural fill pursuant to an Agricultural Fill permit, on the site for the 20-year period preceding the date of the ESC permit application, and including the fill proposed in the ESC permit application, shall not exceed 5,000 cubic yards. For

purposes of this section, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area.

(2a) Fill shall be composed of earth materials only. ~~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;~~

(3b) Cut and fill slopes shall not be steeper than 3:1 exceed 33 percent grade (3 Horizontal: 1 Vertical), unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that a grade in excess of 33 percent is safe (including, but not limited to, not endangering or disturbing adjoining property) and suitable for the proposed development. ~~geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;~~

(4e) Unsupported finished cuts and fills greater than 1 foot in height and less than or equal to 4 feet in height at any point shall meet a setback from any property line of a distance at least twice the height of the cut or fill, unless a Certified Engineering Geologist or Geotechnical Engineer certifies in writing that the cuts or fills will not endanger or disturb adjoining property. All unsupported finished cuts and fills greater than 4 feet in height at any point shall require a Certified Engineering Geologist or Geotechnical Engineer to certify in writing that the cuts and fills will not endanger or disturb adjoining property. ~~Cuts and fills shall not endanger or disturb adjoining property;~~

~~(d) The proposed drainage system shall have adequate capacity to handle stormwater attributed to development on site for a storm of ten year frequency and maintain the existing flood carrying capacity of all watercourses on or adjacent to the property;~~

(5e) Fills shall not encroach on natural watercourses or constructed channels any water body unless measures are approved which will an Oregon licensed Professional Engineer certifies that the altered portion of the water body will continue to provide equal or greater flood carrying capacity for a storm of 10-year design frequency. ~~adequately handle the existing flood carrying capacity for the altered portion of the stream.~~

(6) 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.

~~(2) General Erosion, control standards.~~

(7a) On sites within the Tualatin River Drainage Basin, erosion, sediment and stormwater drainage control measures plans shall satisfy the requirements of OAR 340-041-0345(4). ~~Erosion and stormwater control plans and shall be designed to perform as prescribed by in the currently adopted most recent edition of the “Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)” and the “City of Portland Stormwater Quality Facilities, A Design Manual (1995).” City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.~~ 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 340-041-0345(4) is approved for alterations within the buffer area.

~~(8b) Stripping of vegetation, grading, or other soil disturbance~~ Ground disturbing activity 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;

~~(9e)~~ 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;

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

~~(11e)~~ Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

~~(a)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;

~~(b)2-~~ The buffer required in subsection ~~(11)(a)(e)1-~~ may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment and stormwater control measures 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 Manual (1995)*” in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River ~~D~~drainage Bbasin in OAR 340-~~041-0345(4)~~;

~~(12f)~~ Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

~~(13g)~~ 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;

~~(14h)~~ Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

~~(15i)~~ 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;

~~(16j)~~ All drainage measures ~~provisions~~ shall be designed to prevent erosion and adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural water bodies ~~watercourses~~, drainage swales, or an approved drywell system;

~~(17k)~~ Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

~~(18l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring.~~ Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the site, enter the public right-of-way or be deposited into

any water body or storm drainage system. Control devices and measures which may be required include, but are not limited to:

~~(a)1.~~ Energy absorbing devices to reduce runoff water velocity;

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

~~(c)3.~~ Dispersal of water runoff from developed areas over large undisturbed areas.

~~(19)n~~ Disposed spoil material or stockpiled topsoil shall be prevented from eroding into ~~streams or drainageways~~ water bodies by applying mulch or other protective covering; or by location at a sufficient distance from ~~streams or drainageways~~ water bodies; or by other sediment reduction measures;

~~(20)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;

(21) Ground disturbing activities within a water body shall use instream best management practices prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual;

(22) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes; and

(23) 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 fill shall be tracked or discharged in any manner onto any public right-of-way.

(24) No compensation, monetary or otherwise, shall be received by the property owner for the receipt or placement of fill.

~~(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 Section, 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 subpart of MCC Chapter 39 shall be enforced by the Planning Director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the 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 subpart of MCC Chapter 39 only upon satisfactory completion of all applicable requirements.~~

§39.6230 AGRICULTURAL FILL PERMIT

(A) An application for an Agricultural Fill permit shall include two copies of the following:

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

(a) Property lines;

(b) Buildings, structures, driveways, roads and right-of-way boundaries;

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

(d) An outline of wooded areas;

(e) Water bodies;

(f) Boundaries of ground disturbing activities;

(g) Location and height of unsupported finished slopes;

(h) Ground topography contours (contour intervals no greater than 10-feet);

(i) Erosion and sediment control measures; and

(j) On-site farming practices.

(2) Calculations of the total area of proposed fill placement (square feet), total volume of proposed fill (cubic yards), depth of fill, including depth at various points if fill thickness will not be uniform (feet) and existing and proposed slopes in areas proposed to be filled (percent slope);

(3) A written farm management plan including the following information:

(a) Soil type(s) of both the existing soils to be either covered or amended and soil type(s) of the proposed fill;

(b) Description of existing farming practices;

(c) Description of future farming practices and the relationship to the proposed agricultural fill;

(d) Description of erosion and sediment control measures; and

(e) Project schedule, including the dates fill importation will begin, fill importation will conclude, grading of the agricultural fill will conclude, and farming practices associated with the fill will resume.

(4) 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 the fill source(s) to the fill destination.

(5) Documentation of compliance with stormwater drainage control provisions of MCC 39.6235(B)-(E) when fill is proposed to be placed within a waterbody, when existing stormwater drainage will be diverted to a new location, or when fill thickness at any point exceeds four feet.

(B) An Agricultural Fill permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(1) The farm management plan identifies a need for fill to support a farming practice.

(2) The fill is composed of topsoil only;

(3) No compensation, monetary or otherwise, is received [by the property owner](#) for the receipt or placement of the fill;

(4) An Agricultural Fill permit shall not authorize excavation.

(5) The total daily number of fill haul truck trips shall not cause a transportation impact (as defined in the Multnomah County Road Rules) to the transportation system or fill haul truck travel routes;

(6) The fill shall not encroach any wetlands which have not been approved for fill by The U.S. Army Corp of Engineers, Oregon Department of State Lands or Oregon Department of Fish and Wildlife as required by law;

(7) The fill is not used to physically support any building requiring a structural building permit;

(8) Finished fill slopes shall not exceed 33 percent grade (3 Horizontal: 1 Vertical);

(9) Finished grade of the disturbed area at property lines shall not exceed the elevation of the land at such locations that existed prior to the ground disturbing activity [and any fill slopes exceeding 25% grade shall be setback from site property lines a distance equal to or greater than the maximum height of the fill;](#)

(10) Erosion and sediment control best management practices shall be used. Erosion and sediment control measures must be utilized such that no visible or measurable erosion or sediment shall exit the

site, enter the public right-of-way, or be deposited into any storm drainage system. For purposes of this subsection, the term “site” shall mean either a single lot of record or contiguous lots of record under same ownership, whichever results in the largest land area;

(11) The fill, and the grading of the fill, shall be completed, and disturbed areas returned to farming practices, within one calendar year of permit issuance, unless the permit specifies a different time period;

(12) The fill does not occur in a hazard area identified on the Geologic Hazards Overlay map, or on lands with average slopes of 25 percent or more. Agricultural fill proposed in any of those locations requires either a Geologic Hazards permit or Large Fill permit instead;

(13) 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 fill shall be tracked or discharged in any manner onto any public right-of-way; and

(14) Fill shall not be transported on a public roadway during weekdays from 6:30am – 9:30am and 4:00pm – 6:30pm.

(15) The hours of operation for motorized equipment used on site shall be limited to 7:00am to 6:00pm.

(16) The fill must comply with stormwater drainage control provisions of MCC 39.6235(B)-(E) when fill is proposed to be placed within a waterbody, when existing stormwater drainage will be diverted to a new location, or when fill thickness at any point exceeds four feet.

§39.6235 [29.353] ~~STORMWATER AND RUN-OFF~~ DRAINAGE CONTROL, STANDARDS

(A) Persons creating new or replacing existing impervious surfaces exceeding 500 square feet shall install a stormwater drainage system as provided in this section. This subsection (A) does not apply to shingle or roof replacement on lawful structures.

(B) The provisions of this section are in addition to and not in lieu of any other provision of the code regulating stormwater or its drainage and other impacts and effects, including but not limited to regulation thereof in the SEC overlay. Replacement of existing impervious surfaces does not provide a credit to the 500-square foot threshold except that re-roofing projects on lawfully existing structures that will not require any structural permits do not require stormwater review.

(C) The provisions of this section are in addition to and not in lieu of the stormwater and drainage requirements in the Multnomah County Road Rules and Design and Construction Manual, including those requirements relating to impervious surfaces and proposals to discharge stormwater onto a county right-of-way.

(D) The stormwater drainage system required in subsection (A) 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 ~~waterecourse~~ water body.

(E) At a minimum, to establish satisfaction of the standards in this section and all other applicable stormwater-related regulations in this code, the following information must be provided to the planning director:

(1) A site plan drawn to scale, showing the property line locations, ground topography (contours), boundaries of all ground disturbing activities, roads and driveways, existing and proposed structures and buildings, existing and proposed sanitary tank and drainfields (primary and reserve), location of stormwater disposal, trees and vegetation proposed for both removal and planting and an outline of wooded areas, water bodies and existing drywells;

(2) Documentation establishing approval of any new stormwater surcharges to a sanitary drainfield by the City of Portland Sanitarian and/or any other agency authorized to review waste disposal systems;

(3) Certified statement, and supporting information and documentation, by an Oregon licensed Professional Engineer that the proposed or existing stormwater drainage system satisfies all standards set forth in this section and all other stormwater drainage system standards in this code; and

(4) Any other report, information, plan, certification or documentation necessary to establish satisfaction of all standards set forth in this section and all other applicable stormwater-related regulations in this code, such as, but not limited to, analyses and explanations of soil characteristics, engineering solutions, and proposed stream and upland environmental protection measures.