TO: Columbia River Gorge Commission

FROM: Joanna Kaiserman, Land Use Planner

DATE: June 4, 2019 for the June 11, 2019 Commission Meeting

SUBJECT: Consistency Review of Multnomah County Ordinance No. 1271 related to regulation of ground-disturbing activity.

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Action Requested

Staff recommends that at the June 11, 2019 hearing, the Gorge Commission:

1. Find the portions of Multnomah County Ordinance No. 1271 affecting lands in the General Management Area (GMA) consistent with the Management Plan; and

2. Tentatively find the provisions of Multnomah County Ordinance No. 1271 affecting lands in the Special Management Area (SMA) consistent with the Management Plan and direct staff to forward them to the Secretary of Agriculture for concurrence.

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Introduction

Multnomah County adopted Ordinance 1271 to amend its National Scenic Area ordinance (Chapter 38 of the Multnomah County Code) related to the regulation of ground disturbing activities. These amendments are an overlay to National Scenic Area regulation in the Multnomah County Code, that is, the code provisions being amended are not required by the Management Plan; they are additional county regulations. Staff has reviewed these amendments to determine whether they conflict with existing National Scenic Area provisions.

The amendments are intended to clarify and strengthen regulations within, and distinctions between, categories of ground disturbance regulation. These changes include renaming regulations (“Grading and Erosion Control” to “Erosion and Sediment Control,” and “Hillside Development” to “Geologic Hazards”). The standards for Erosion and Sediment Control (formerly Grading and Erosion Control) fall under the provisions in the Geologic Hazard Overlay (formerly Hillside Development). The Management Plan does not directly regulate land relating to geologic hazards.
Ordinance 1271 was approved by the Multnomah County Board of Commissioners on March 14, 2019. Multnomah County transmitted a copy of Ordinance No. 1271 to review for consistency with the Management Plan on March 19, 2019. A copy of Ordinance 1271 is attached. While Ordinance 1271 includes amendments to Chapter 38 and 39 of Multnomah County Code, only Chapter 38 applies to the National Scenic Area. Staff reviewed only the amendments made to Chapter 38 for consistency with the Management Plan. You do not need to review or consider any amendments to Chapter 39, except, as explained below, one provision in Chapter 38 refers to one provision in Chapter 39.

**Statutory Requirements for Commission Consistency Review**

Pursuant to Section 7(b)(3) of the Scenic Area Act, the Commission must review a county ordinance (and any amendments) for consistency with the Management Plan within 90 days of receipt of the ordinance. The 90-day deadline for review of Ordinance No. 1271 is June 17, 2019. Approval of the ordinance requires a majority vote, including at least three members from each state. Once deemed consistent by the Commission, the provisions that apply to the GMA may go into effect either immediately or on a date specified by a county. If the Commission finds the ordinance inconsistent, the Commission must state the reasons why and suggest modifications to the County to make it consistent.

Section 8(i) of the National Scenic Area Act specifies that the Commission shall review the SMA ordinance provisions within 90 days of receipt of the ordinance and make a tentative determination as to whether it is consistent with the Management Plan. If the Commission tentatively determines that the ordinance is consistent with Management Plan, the Commission then forwards the SMA ordinance provisions to the Secretary of Agriculture for concurrence. If the Secretary concurs, the provisions that apply to the SMA may go into effect either immediately upon concurrence or on a date specified by a county. If the Commission finds the ordinance inconsistent, the Commission must state the reasons why and suggest modifications to the County to make it consistent.

**Amendment Summary and Consistency Analysis**

Multnomah County Ordinance No. 1271 amends Chapters 38 and 39 of county code. Only Chapter 38, the County’s National Scenic Area Code, relates to amendments affecting the National Scenic Area. Multnomah County Code (MMC), except that 38.5520 (on page 13 of the ordinance) refers to one provision in Chapter 39. This is deliberate; this is not a Multnomah County typo. Chapter 38 is amended in the following ways.

1. Changing the term “hillside development” to “geologic hazards.”
2. Clarifying language and strengthening regulations related to ground disturbance.

Two provisions in Chapter 38 of the Multnomah County Code address provisions that differ from or are in addition to the standards in the Management Plan.

Multnomah County Code 38.0207(D)(2) states that Multnomah County has the authority “to adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater protection for the scenic, cultural, natural, and recreation resources of the Scenic Area (with concurrence by the Gorge Commission and by the Secretary of Agriculture in the Special Management Area).”

Multnomah County Code 38.0207(D)(5) states: “The County may adopt provisions in its land use ordinance that are not required by a policy or guideline in the Management Plan for the Columbia River Gorge National Scenic Area when it deems they are necessary to protect general health,
safety, and welfare or to implement state or federal laws not regulated by the Columbia River Gorge National Scenic Area Act. Such provisions shall not conflict with the Act.” The ordinance amendments are related to provisions not required by a policy or guideline in the Management Plan. The County deemed these amendments necessary to protect general health, safety, and welfare, by clarifying and strengthening regulations to ground disturbance.

The ordinance amendments are in addition to the guidelines in the Management Plan, as the Management Plan does not directly regulate erosion control and geologic hazards. Commission staff recommends these ordinance provisions do not allow development that the Management Plan prohibits, and do not allow development that would not also comply with the Management Plan provisions. Staff recommends that no single provision, nor the amendments as a whole conflict with provisions of the Management Plan.

Additionally, one of the new provisions, Multnomah County Code 38.5530(S), explicitly defers authority to National Scenic Area standards. That provision states, “Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual. To the extent that there is a conflict between the Manual and the requirements of the National Scenic Area (NSA) Permit, the requirements in the NSA will apply.”

**Conclusion**

Staff recommends the Commission approve Multnomah County Ordinance No. 1271 as consistent with the Management Plan and direct staff to forward those provisions of the ordinance that apply to Special Management Area lands to the Secretary of Agriculture for concurrence.

Attachments: Multnomah County Ordinance No. 1271
BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1271

Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.

(Language stricken is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

a. Periodically, there is a need to amend County land use policies or regulations to address a change in law or circumstance; to implement elements of the Multnomah County Comprehensive Plan; or to make technical corrections for, among other things, clarification and consistency (commonly referred to as “housekeeping amendments”). Having identified such need, the Multnomah County Planning Commission recommended the adoption of this ordinance to the Board of County Commissioners. The Planning Commission made such recommendation through adoption of the resolution described below and pursuant to its authority in MCC 38.0340, MCC 39.1645, and in ORS 215.110.

b. Planning Commission Resolution No. PC 2016-5384 implements a range of Comprehensive Plan policies related to regulation of ground disturbing activities and stormwater runoff to help protect the public health, safety and welfare from adverse development impacts including but not limited to erosion and sedimentation, stormwater drainage, and earth movement (landslides).

Generally, this ordinance:

1) Amends definitions, permit thresholds, application information required, standards of approval, and exemptions for Minimal Impact Project, Erosion and Sediment Control, Stormwater Drainage Control, Geologic Hazards and Large Fill Permits;

2) Adds a new permit review process and standards of approval for Agricultural Fill operations (topsoil deposition to support a farming practice);

3) Prohibits Large Fill Conditional Uses in certain environmental overlays and on high value farm land;

4) Clarifies that the volume measurement is cumulative for fill under Erosion and Sediment Control, Geologic Hazards, and Large Fill permit thresholds and establishes a 20-year period for that cumulative measurement;

5) Adds standards for fill generated as a result of dredging activities;
6) Clarifies that Stormwater Drainage Control requirements apply to replacement of certain existing impervious surfaces but exempts shingle and roof replacement on lawful existing structures; and
7) Provides housekeeping measures.

c. The Planning Commission held a public hearing on this ordinance on November 5, 2018, which was continued to December 3, 2018, during which all interested persons were given the opportunity to appear and be heard. Notice of both Planning Commission hearings was published in the Oregonian newspaper and on the website of the Multnomah County Land Use Planning Program. In addition, the written individual notice required in ORS 215.503 (commonly referred to as “Ballot Measure 56 notice”) was mailed on October 12, 2018 to each owner of each lot or parcel of property that may be “rezoned,” as that term is defined by statute, under this ordinance because this ordinance may limit or prohibit a land use previously allowed in the affected zones.

d. The Planning Commission’s recommendation is sound and derives from the proper execution of its duties and authority.

Multnomah County Ordains as Follows:

Section 1. MCC 38.0530 is amended as follows:

§ 38.0530 SUMMARY OF DECISION MAKING PROCESSES.

The following decision making processes chart shall control the County’s review of the indicated permits:

<table>
<thead>
<tr>
<th>APPROVAL PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permit Type</td>
</tr>
<tr>
<td>Initial Approval Body:</td>
</tr>
<tr>
<td><strong>Hillside Development Geologic Hazards Permit</strong></td>
</tr>
</tbody>
</table>

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Section 2. MCC 38.5500 is amended as follows:

HILLSIDE DEVELOPMENT GEOLOGIC HAZARDS

§ 38.5500- PURPOSES.

The purpose of this subdistrict is to regulate ground disturbing activity within the Geologic Hazards Overlay in order to promote 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. The purposes of the Hillside Development and Erosion Control subdistrict are to protect geologic resources and avoid hazards, ensure that grading on unstable or steep slopes does not degrade geologic resources; to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County. This subdistrict is intended to:

(A) Protect human life;
(B) Preserve stability of geologic features;
(C) Protect property and structures;
(D) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
(E) Control erosion, production and transport of sediment; and
(F) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces.

Section 3. MCC 38.5525 is renumbered and amended as follows:

§ 38.5525 HILLSIDE DEVELOPMENT AND EROSION CONTROL-RELATED DEFINITIONS

As used in this Subsection, 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.

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Cut – When used in the context of ground disturbing activity:

(1) An excavation;

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

(3) The material removed in excavation work.

Development – An act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including but not limited to, a building, land use, occupancy, sewer connection, or other similar permit, and any associated ground disturbing activity or removal of vegetation. As the context allows or requires, the term “development” may be synonymous with the term “use” and the terms “use or development” and “use and development.”

Disturbed Area – When used in reference to ground disturbing activity, the area where ground disturbing activity is occurring or has, will or is proposed to occur.

Drainageway – Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open watercourse water body.

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 of the ground surface or other earth layer, whether dry, submerged or submersible, due to the movement of wind, water, ice, gravity, or other element. 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 – The motorized removal of earth material or other motorized activity resulting in the exposure of the ground surface or other earth layer to wind, water, ice, gravity, or other element, including, but not limited to, cutting, digging, grading, stripping, trenching, dredging, bulldozing, benching, terracing, mining or quarrying, and vegetation or tree removal. Hydrologic scour attributed to development is also a form of excavation. Work conducted by hand without the use of motorized equipment is not excavating. 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.

Farming Practice – As defined in ORS 30.930.

Fill – The deposit (noun or verb) of any earth materials by motorized means for any purpose, including, but not limited to, stockpiling, storage, dumping, raising elevation or topography, and.
tracking material such as mud onto a road surface with vehicle tires. Work conducted by hand without the use of motorized equipment is not filling.

(1) — 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 therefrom.

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

(3) — The material used to make a fill.

**Geologic Hazards Overlay Map** — A series of maps adopted by the Multnomah County Board of Commissioners.

**Geotechnical Report** — Any information required in addition to HDP GHP Form 1 which certifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.

**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 excavating or filling or combination thereof.

**GHP HDP Form 1** — The form required for specified developments subject to the Geologic Hazards Overlay Hillside Development and Erosion Control subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

**Hydrologic Scour** — Evidence of concentrated flows of water over bare soils or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on site.

**Landslide** - Any downward slope movement of earth material, including, but not limited to, soil creep, debris flow, mudflow, earth flow, mudslide, rock slide, rotational slide, slide, slump, block failure, rock fall, fall, topple, and spread.

**Land-disturbing Activities** — Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities includes: excavations or fills, site grading, and soil storage.
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. Materials 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 shall be measured to include the entire stream feature.

Sedimentation (sediment). The deposit in a waterbody of any earthen material by wind, water, ice, gravity, or other element.

* * *

Slope Hazard Map – A series of maps maintained and updated from time to time by Office of the Director, Department of Community Services;

Sediment. The deposit in a waterbody of any earthen material by wind, water, ice, gravity, or other element.

Sedimentation (sediment). The deposit in a waterbody of any earthen material by wind, water, ice, gravity, or other element.

* * *

Slope Hazard Map – A series of maps maintained and updated from time to time by Office of the Director, Department of Community Services;

Topsoil – The top organic and mineral rich layer of soil that provides nutrients to growing plants.
Water Body - Any surface or ground water, or wetland of the state or the United States, including but not limited to, rivers, streams, creeks, sloughs, drainageways, swales, seeps, springs, watercourses, canals, drainages, ponds, lakes, bays, aquifers, coastal waters, impounding reservoirs, estuaries, marshes, and inlets, regardless of whether perennial, intermittent, ephemeral, or otherwise, and regardless of whether natural or human-made. Areas permanently or temporarily flooded which may exceed the deep water boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds.

Watercourse—Natural and artificial features which transport surface water. Watercourse includes a river, stream, creek, slough, ditch, canal, or drainageway.

Section 4. MCC 38.5505 is amended as follows:

§ 38.5505 PERMITS REQUIRED

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 38.5510.

Unless exempt under this code; no development, or ground disturbing activity shall occur (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or 2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geologic Hazards permit (GH).

Section 5. MCC 38.5510 is amended as follows:

§ 38.5510 EXEMPTIONS—LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this Chapter:

(A) — Development activities approved prior to February 6, 1993; except that within such a development, issuance of individual building permits for which application was made after February 6, 1993 shall conform to site-specific requirements applicable herein;

(B) — General Exemptions — All activity land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if:

(1) — Natural and finished slopes will be less than 25 percent; and;

(2) — The disturbed or filled area is 20,000 square feet or less; and,
(3) The volume of soil or earth materials to be stored, in conjunction with the project, is 50 cubic yards or less; and,

(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(C) Categorical Exemptions—Notwithstanding MCC 38.5510 (A) and (B) (1) through (6), the following activities are exempt from the permit requirements:

(1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five-four feet.

(2) Cemetery graves, but not cemetery soil disposal sites.

(3) Excavations for wells.

(4) Routine agricultural crop management practices.

(5) Residential gardening and landscape maintenance at least 100-feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

(6) Emergency response activities conducted according to MCC 38.7090.

(7) Forest practices as defined by ORS 527 (The State Forest Practices Act) and approved by the Oregon Department of Forestry.

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

(A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished depth greater than four feet.

(B) Cemetery graves, but not cemetery soil disposal sites.

(C) Excavations for wells.
(D) Farming practices other than filling or the placement of structures.

(E) 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 from the top of the bank of any watercourse 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.

(F) Emergency response activities conducted according to MCC 38.7090.

(G) Forest Practices.

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

(I) 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:

1. 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

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

(J) 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.

(K) 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.

(L) Uses not identified in subsections (A) through (K) that meet all of the following requirements:

1. Natural and finished slopes will be less than 25 percent; and,

2. The disturbed or filled area is 20,000 square feet or less; and,

3. The volume of soil or earth materials to be stored is 50 cubic yards or less; and,

4. Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,
(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

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

Section 6. MCC 38.5515 is amended as follows:

§ 38.5515 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED

An application for a Geologic Hazards permit development subject to the requirements of this subdistrict shall include two copies of each of the following:

(A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal. A scaled site plan showing the following, both existing and proposed:

   (1) Property lines;

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

   (3) Location of wells, utility lines, site drainage provisions, 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;

   (6) Boundaries of ground disturbing activities;

   (7) Location and height of unsupported finished slopes;

   (8) Location for washout and cleanup of concrete equipment;

   (9) 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;

   (10) Soil types;

   (11) Ground topography contours (contour intervals no greater than 10-feet); and
(12) Erosion and sediment control measures.

(B) An estimate of depths and the extent and location of all proposed cuts and fills. Calculations of the total area of proposed ground disturbance (square feet), volume of proposed cut and fill (cubic yards), and existing and proposed slopes in areas to be disturbed (percent slope);

(C) The location of planned and existing sanitary drainfields and drywells.

(CD) Narrative. Written findings, together with any supplemental plans, maps, reports, or other information necessary to demonstrate compliance of the proposal with all applicable provisions of the Geologic Hazards standards in MCC 38.5520 (A). 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. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) 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.

(b) 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.

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

(3) One of the following:

(E) A Hillside Development permit may be approved as a Type II decision only after the applicant provides:

(1a) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(2b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,
(3c) An **HDP GHP** Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her their stamp and signature affixed indicating that the site is suitable for the proposed development.

(ai) If the **HDP GHP** Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the **HDP GHP** Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from landslide hazards.

[b] Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the geotechnical report to ensure safety of the proposed development.

[c] Observation of work required by an approved geotechnical report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant’s expense; the geologist’s or engineer’s name shall be submitted to the director prior to issuance of the permit.

[d] The director, at the applicant’s expense, may require an evaluation of GHP Form– 1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

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

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

(F) Geotechnical Report Requirements

(1) A geotechnical investigation in preparation of a Report required by MCC 38.5515 (E)-(3) (a) shall be conducted at the applicant’s expense by a Certified Engineering
Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.

(2) Any development-related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

(4) The Director, at the applicant's expense, may require an evaluation of (a) if the HDP Form I or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 38.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

Section 7. MCC 38.5520 is amended as follows:

§ 38.5520 GRADING AND EROSION CONTROL GEOLOGIC HAZARDS PERMIT STANDARDS

(A) A Geologic Hazards (GH) 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 Hillside Development 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 these standards:

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

(Ba) 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 or delegate may require additional studies or information or work regarding fill materials and compaction;

(Cb) Cut and fill slopes shall not be steeper than 3:1 unless 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;

(De) 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 boundary 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 or 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 bypass through the development the existing upstream flow from a storm of 10-year design frequency;

(Fe) 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 displaced streamflow for a storm of 10-year design frequency;

(2) Erosion Control Standards

(Fa) Stripping of vegetation, grading ground disturbing activities, or other soil disturbance 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;

(Gb) 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;

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

(Id) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(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;

(2) The buffer required in (1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment and stormwater control 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 Guidance 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 Drainage Basin in OAR 340-041-0345(4);

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

(Kf) 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;

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

(Mh) 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;

(Ni) All drainage measures provisions shall be designed to avoid 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;

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

(Pk) 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 shall occur on-site and no visible or measurable 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:

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

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

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

(Q4) 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;

(Rm) 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 cleanup activities;
(S) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual. To the extent that there is a conflict between the Manual and the requirements of the National Scenic Area (NSA) Permit, the requirements in the NSA will apply; and

(T) 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, unless mitigated as approved by the County Transportation Division.

(U) 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.

(V) 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 requirements of this subdistrict shall be enforced by the Planning Director. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Hillside Development, work may be stopped until appropriate correction measures are completed.
Final Approvals

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

Section 8. MCC 39.1105 is amended as follows:

The following decision making processes chart shall control the County’s review of the indicated permits:

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>I</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>PC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Approval Body</td>
<td>(Not a &quot;land use decision&quot;)</td>
<td>(Planning Director)</td>
<td>(Hearings Officer)</td>
<td>(Planning Commission)</td>
<td>(Legislative)</td>
</tr>
<tr>
<td>Allowed Uses</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Agricultural Fill

Grading and Erosion Control

Erosion and Sediment Control

Flood Development

Section 9. MCC 39.2000 is amended as follows:

§ 39.2000 DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:

Agricultural Fill – Ground disturbing activity in the form of topsoil deposition to support a farming practice.

Certified Engineering Geologist – Any person who has obtained certification by the State of Oregon as an engineering geologist.

Page 17 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.
Cut – When used in the context of ground disturbing activity:

(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.

***

Development – Any act requiring a permit stipulated by Multnomah County Ordinance as a prerequisite to the use or improvement of any land, including, but not limited to, a building, land use, occupancy, sewer connection, or other similar permit, and any associated grading or removal of vegetation ground disturbing activity. As the context allows or requires, the term “development” may be synonymous with the term “use” and the terms “use or development” and “use and development.”

***

Disturbed Area - When used in reference to ground disturbing activity, the area where ground disturbing activity is occurring or has, will or is proposed to occur.

***

Earth Materials - Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

***

Emergency/Disaster Response – Actions involving any development (such as new structures, grading or ground disturbing activity or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground disturbing activity ground disturbance (such as emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

***

Erosion – The wearing away of the ground surface or other earth layer, whether dry, submerged or submersible, or removal of earth surface materials by the action of natural elements or forces including but not limited to, due to the forces of wind, water, ice or gravity, or other element.

***

Excavation - The motorized removal of earth material or other motorized activity resulting in the exposure of the ground surface or other earth layer to wind, water, ice, gravity, or other element, including, but not limited to, cutting, digging, grading, stripping, trenching, dredging, bulldozing.
benching, terracing, mining or quarrying, and vegetation or tree removal. Work conducted by hand without the use of motorized equipment is not excavating.

***

**Farming Practice** - As defined in ORS 30.930.

***

**Fill** - The deposit (noun or verb) of any earth materials by motorized means for any purpose, including, but not limited to, stockpiling, storage, dumping, raising elevation or topography, and tracking material such as mud onto a road surface with vehicle tires. Work conducted by hand without the use of motorized equipment is not filling.

(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.

***

**Forest Practice** - As defined in ORS 30.930.

***

**Geotechnical Engineer** – A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

***

**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 excavating or filling or combination thereof.

***

**Landslide** - Any downward slope movement of earth material, including, but not limited to, soil creep, debris flow, mudflow, earth flow, mudslide, rock slide, rotational slide, slide, slump, slope failure, block failure, rock fall, fall, topple, and spread.

***

**Large Fill** – The addition-cumulative deposit of more than 5,000 cubic yards of material-fill to a site within the 20-year period preceding the date of an application for a Large Fill permit and including the
fill proposed in the Large Fill permit application, excepting fill material 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 Traffeways map. The Traffeways map is part of
the County Transportation System Plan. For purposes of this definition, 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. For purposes of this definition, the phrase same ownership shall refer 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 definition, the seller of a property by sales contract shall be considered to not have
possessory interest.

* * *

**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.

* * *

**Sedimentation (sediment)**. The deposit in a waterbody of any earthen material by wind, water, ice,
gravity, or other element.

* * *

**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 ground disturbing
activity.

* * *

**Topsoil** – The top organic and mineral rich layer of soil that provides nutrients to growing plants.

* * *

**Water Body** - Any surface or ground water, or wetland of the state or the United States, including but
not limited to, rivers, streams, creeks, sloughs, drainageways, swales, seeps, springs, watercourses,
canals, drainages, ponds, lakes, bays, aquifers, coastal waters, impounding reservoirs, estuaries,
marshes, and inlets, regardless of whether perennial, intermittent, ephemeral, or otherwise, and
regardless of whether natural or human-made.
Section 10. MCC 39.4325 is amended as follows:

§ 39.4325 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

All development proposed in this base zone shall comply with the applicable provisions of this section.

* * *
(J) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(KJ) All exterior lighting shall comply with MCC 39.6850.

Section 11. MCC 39.4375 is amended as follows:

§ 39.4375 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

* * *
(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(HG) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU base zone; or

(2) Where the farm use does not occur on land in the EFU base zone, the owner shall record a covenant that states they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

(HH) All exterior lighting shall comply with MCC 39.6850.

Section 12. MCC 39.4475 is amended as follows:

§ 39.4475 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

* * *
(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(HG) New, replacement or expansion of existing industrial use buildings shall minimize stormwater drainage impacts by limiting the footprint of the building or buildings to 5,000 square feet of the maximum 10,000 square feet.

Page 21 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.
(IH) All exterior lighting shall comply with MCC 39.6850.

**Section 13.** MCC 39.4525 is amended as follows:

§ 39.4525 **DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(GF) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

1. Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

2. Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the general area.

(HG) All exterior lighting shall comply with MCC 39.6850.

**Section 14.** MCC 39.4575 is amended as follows:

§ 39.4575 **DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(HG) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

1. Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

2. Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.

(HH) New, replacement or expansion of existing industrial use buildings shall minimize stormwater drainage impacts by limiting the footprint of the building or buildings to 7,500 square feet of the maximum 15,000 square feet.

(IH) All exterior lighting shall comply with MCC 39.6850.
Section 15. MCC 39.4625 is amended as follows:

§ 39.4625 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(GF) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states they recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.

(GG) All exterior lighting shall comply with MCC 39.6850.

Section 16. MCC 39.4680 is amended as follows:

§ 39.4680 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC 39.6200 through 39.6235.

(GF) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states they recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.

(GG) All exterior lighting shall comply with MCC 39.6850.

Section 17. MCC 39.5070 is amended as follows:

§ 39.5070 PURPOSES.

The purpose of this Subpart 5.B is to regulate ground disturbing activity within the Geologic Hazards Overlay in order to promote 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. The purposes of the Geologic Hazards (GH) Overlay, MCC 39.5070 through MCC 39.5095, are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated Multnomah County, all in accordance with ORS 215, LCDC Statewide Planning Goal No. 7 and OAR 340 – 41 – 455 for the Tualatin River Basin, and the Multnomah County Comprehensive Plan policies relating to natural hazards. In addition, the GH is 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; and

(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 within the Tualatin River and Balch Creek Drainage Basins.

Section 18. MCC 39.5095 is renumbered and amended as follows:

§ 39.509573 DEFINITIONS.

For purposes of MCC 39.5070 through MCC 39.5110, the following terms and their derivations shall have the meanings provided below: As used in this Subpart 5.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.

Certified Engineering Geologist — Any person who has obtained certification by the State of Oregon as an engineering geologist.

Cut —

(1) An excavation;

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

(3) The material removed in excavation work.

Development – In addition to the definition of development in MCC 39.2000, for purposes of this Overlay, “development” also means, any human-made change defined as buildings or other structures,
mining, dredging, paving, or ground disturbing activities filling, grading in amounts greater than ten (10) cubic yards on any lot or excavation, and any activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel.

**Development 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 water course.

**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**

(1) 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 therefrom.

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

(3) The material used to make a fill.

**Geologic Hazards Overlay Map** — A series of maps adopted by the Multnomah County Board of Commissioners.

**Geotechnical Engineer** — A Civil Engineer, licensed to practice in the State of Oregon, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

* * *

**Grading** — Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

**GHP Form-1** — The form required for specified developments subject to the Geologic Hazards Overlay. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.
**Land-disturbing Activities**—Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities includes: excavations or fills, site grading, and soil storage.

**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 storm water, 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 watermark shall be measured to include the entire stream feature.

**Slope**—

1. Any ground whose surface makes an angle from the horizontal; or
2. The face of an embankment or cut section.

**Slope Hazard Map**—A series of maps maintained and updated from time to time by the Land Use Planning Office, Department of Community Services.

**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 (e.g., 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 (e.g., swales) shall be considered streams when hydrologic and hydraulic analyzes performed pursuant to a development proposal predict formation of a defined channel after development.

* * *

**Topographic Information**—Surveyed elevation information which details slopes, contour intervals and drainageways water bodies. Topographic information shall be prepared by a registered Land Surveyor.
or a registered Professional Engineer qualified to provide such information and represented on maps with a contour interval not to exceed 10 feet.

* * *

**Water Body**—Areas permanently or temporarily flooded including rivers, streams, sloughs, aquifers, wetlands, creeks, lakes, ponds, coastal waters, and drainages (including intermittent streams and seeps).

**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. Watercourse includes a river, stream, creek, slough, ditch, canal, or drainageway.

**Section 19.** MCC 39.5075 is amended as follows:

§ 39.5075 **PERMITS REQUIRED.**

All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the Slope Hazard Map, or on lands with average slopes of 25 percent or more shall obtain a Geologic Hazard Permit as required in the GH, unless specifically exempted in MCC 39.5080. Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

**Section 20.** MCC 39.5080 is amended as follows:

§ 39.5080 **EXEMPT LAND USES AND ACTIVITIES.**

The following are exempt from the GH:

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

**(B)**—General Exemptions—Outside the Tualatin River and Baleh Creek Drainage Basins, all land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to the GH, if:

(1) Natural and finished slopes will be less than 25 percent; and,

(2) The disturbed or filled area is 20,000 square feet or less; and,

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,
(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

(C) Categorical Exemptions—Notwithstanding subsections (A) and (B) (1) through (6) above, the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a Permit pursuant to OAR 340-41-455 (3):

(1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.

(2) Cemetery graves, but not cemetery soil disposal sites.

(3) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455 (3).

(4) Mineral extraction activities as regulated by MCC 39.7300 through 39.7330, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455 (3).

(5) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

(6) Routine agricultural crop management practices.

(7) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high-watermark (line of vegetation) of a body of water or wetland.

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

(9) Forest practices as defined by ORS 527 (The State Forest Practices Act) and approved by the Oregon Department of Forestry.

§ 39.5080 EXEMPTIONS.

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

(A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with...
the material from such excavation, nor exempt any excavation having an unsupported finished depth, greater than four feet.

(B) Cemetery graves, but not cemetery soil disposal sites.

(C) Excavations for wells, except that sites in the Tualatin River drainage basin shall comply with OAR 340-041-0345(4) for spoils or exposed areas.

(D) Mineral extraction activities as regulated by MCC 39.7300 through 39.7330, except that sites in the Tualatin River drainage basin shall comply with OAR 340-041-0345(4) for spoils or exposed areas.

(E) Exploratory excavations under the direction of a Certified Engineering Geologist or Geotechnical Engineer.

(F) Farming practices other than filling or the placement of structures.

(G) 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 from the top of the bank of any watercourse 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.

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

(I) Forest practices.

(J) 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) 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:

1. 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

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

(L) 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.
(M) 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.

(N) Uses not identified in subsections (A) through (M) that meet all of the following requirements:

(1) Natural and finished slopes will be less than 25 percent; and,

(2) The disturbed or filled area is 20,000 square feet or less; and,

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,

(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified; and,

(7) The use will occur outside the Tualatin River and Balch Creek drainage basins.

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

Section 21. MCC 39.5085 is amended as follows:

§ 39.5085 GEOLOGIC HAZARDS PERMIT APPLICATION INFORMATION REQUIRED.

An application for a Geologic Hazards permit development subject to the GH shall include two copies of each of the following:

(A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal: A scaled site plan showing the following, both existing and proposed:

(1) Property lines;

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

(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;

(6) Boundaries of ground disturbing activities;

(7) Location and height of unsupported finished slopes;

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

(9) 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;

(10) Soil types;

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

(12) Erosion and sediment control measures.

(B) An estimate of depths and the extent and location of all proposed cuts and fills. 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;

(C) The location of planned and existing sanitary drainfields and drywalls.

(DC) 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 all applicable provisions of the Geologic Hazards standards in MCC 39.5090(A). 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. The written findings and supplemental information shall include:

(1) With respect to fill:

(a) 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.
(b) 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.

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

(3) One of the following:

(E) A Geologic Hazard Permit may be approved by the Director only after the applicant provides:

(4a) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(2b) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(3c) A GHP Form–1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with their stamp and signature affixed indicating that the site is suitable for the proposed development.

(ai) If the GHP Form–1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the GHP Form–1, a geotechnical report as specified by the Director shall be prepared and submitted.

[a] A geotechnical investigation in preparation of a geotechnical report shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The report shall include specific investigations required by the director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from landslide hazards.

[b] Any development related manipulation of the site prior to issuance of a permit shall be...
subject to corrections as recommended by the geotechnical report to ensure safety of the proposed development.

[c] Observation of work required by an approved geotechnical report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the director prior to issuance of the permit.

[d] The director, at the applicant's expense, may require an evaluation of GHP Form—1 or the geotechnical report by another Certified Engineering Geologist or Geotechnical Engineer.

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

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

(F) Geotechnical Report Requirements

(1) A geotechnical investigation in preparation of a Report required by MCC 39.5085-(E)(3)(a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.

(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

(4) The Director, at the applicant's expense, may require an evaluation of GHP Form—1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.
(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 39.5090 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

Section 22. MCC 39.5090 is amended as follows:

§ 39.5090 GRADING AND EROSION CONTROL-STANDARDS FOR GEOLOGIC HAZARDS PERMIT STANDARDS.

Approval of development plans on sites subject to a Geologic Hazard 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 Geologic Hazards (GH) permit shall not be issued unless the application for such permit establishes compliance with MCC 39.6210 and satisfaction of the following standards:

(A) Design Standards For Grading and Erosion Control The total cumulative deposit of fill on the site for the 20-year period preceding the date of the application for the GH permit, and including the fill proposed in the GH permit application, shall not exceed 5,000 cubic yards. For purposes of this provision, 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.

(1) — Grading Standards

(aB) 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; Fill shall be composed of earth materials only.

(bC) 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.

(eD) Cuts and fills shall not endanger or disturb adjoining property; 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 or fills will not endanger or disturb adjoining property.

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

(eE) Fills shall not encroach on natural watercourse or constructed channels any water body unless measures are approved which will an Oregon licensed Professional Engineer certifies in writing that the altered portion of the waterbody will continue to provide equal or greater flood carrying capacity.

Page 34 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.
(F) 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) Erosion Control Standards

(aG) On sites within the Tualatin River Drainage Basin, erosion, sediment and stormwater drainage control plans shall satisfy the requirements of OAR 340-041-0345(4). Erosion and stormwater control plans 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 Guidance Manual (1995)". City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual. Land 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.

(bH) Stripping of vegetation, grading ground disturbing activities, or other soil disturbance 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;

(e1) 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;

(d1) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(eK) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

(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 water mark (line of vegetation) of a water body, or within 100-feet of a wetland;

(2) The buffer required in subsection (K)(1) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment, and stormwater control 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 Guidance 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 Drainage Basin in OAR 340-041-0345(4);

(fL) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;
(gM) 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;

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

(iO) 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;

(iP) 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 systems;

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

(lR) 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:

1. Energy absorbing devices to reduce runoff water velocity;

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

3. Dispersal of water runoff from developed areas over large undisturbed areas.

(mS) 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;

(nT) 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.

(eU) On sites within the Balch Creek Drainage Basin, erosion, sediment and stormwater control features measures shall be designed to perform as effectively as those prescribed in the most recent edition of the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities ground disturbing activity within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.
(V) Ground disturbing activities within a water body shall use instream best management practices designed to perform as prescribed in the City of Portland Erosion and Sediment Control Manual and the City of Portland Stormwater Management Manual.

(W) 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, unless mitigated as approved by the County Transportation Division.

(X) 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.

(Y) 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 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. If inspection by County staff reveals erosive conditions which exceed those prescribed by the Geologic Hazard 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 the GH only upon satisfactory completion of all applicable requirements.
Section 23. MCC 39.5850 is amended as follows:

§ 39.5850  SEC-H CLEAR AND OBJECTIVE STANDARDS.

* * *

(B) The proposed development shall meet the applicable storm water stormwater and grading and erosion control ground disturbing activity requirements of MCC 39.624000 through 39.6235. Ground disturbing activity within 100 feet of a watercourse water body as defined by MCC 39.2000 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

* * *

Section 24. MCC 39.5860 is amended as follows:

§ 39.5860  CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT.

* * *

(5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:

* * *

(i) An erosion and sediment control plan shall be prepared in compliance with the ground disturbing activity Grading and Erosion Control standards set forth in MCC 39.624000 through MCC 39.6235.

* * *

Section 25. MCC 39.6000 is amended as follows:

§ 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 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.
Section 26. MCC 39.6200 is amended as follows:

§ 39.6200   PURPOSES.

The purposes of the Grading and Erosion Control Standards this Subpart 6.B are 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 of discharges and protect streams, ponds, and wetlands.

Section 27. MCC 39.6205 is amended as follows:

§ 39.6205   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:

Page 39 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.
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 windows, 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 (aereage) 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 therefrom.

(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).

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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 of 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 watercourses water bodies 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.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainage ways water bodies. Topographic information shall be prepared by a registered Land Surveyor or a registered Professional Engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.
**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.

Section 28.  MCC 39.6210 is amended as follows:

§ 39.6210  PERMITS REQUIRED.

<table>
<thead>
<tr>
<th>The proposal qualifies for Minimal-Impact Project review only if all of the following are met:</th>
<th>A Grading and Erosion Control Permit is required if any of the following triggers are met:</th>
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</thead>
<tbody>
<tr>
<td>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</td>
<td>More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or</td>
</tr>
<tr>
<td>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; or</td>
<td>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</td>
</tr>
</tbody>
</table>
Inventory-mapped wetlands associated with a water-body, whichever distance is greater; and

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<tr>
<th>Slopes before development are less than or equal to 10 percent (10 horizontal: 1 vertical); and</th>
<th>Slopes before development are greater than 10 percent (10 horizontal: 1 vertical); or</th>
</tr>
</thead>
<tbody>
<tr>
<td>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</td>
<td>Unsupported finished slopes exceed a 33 percent (3 horizontal: 1 vertical) grade and greater than five feet in height; or</td>
</tr>
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<td>No Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water-body.</td>
<td>Hydrologic scour attributed to development occurs resulting in visible erosion, turbidity, or sediment deposition within a water-body.</td>
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(B) — Development projects subject to a Geologic Hazards permit regulated under MCC Part 5 & 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.

Page 43 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.
(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.

Section 29. MCC 39.6215 is amended as follows:

§ 39.6215 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 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:

* * *

(E) Exploratory excavations under the direction of Certified Engineering Geologists or Geotechnical Engineers.

(F) Routine agricultural management practices Farming practices other than filling or the placement of structures.

(G) 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.

* * *

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

(J) 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 U.S. Department of Agriculture, 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:

1. 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

2. 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.

Section 30. MCC 39.6225 is amended as follows:

§ 39.62250 MINIMAL IMPACT PROJECT PERMIT STANDARDS.

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.

(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.

**Section 31.** MCC 39.6220 and 39.6230 are amended as follows:

**§ 39.62205 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:

(A) 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, erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

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

(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 plantings 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.

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

(a) Specific timelines for all phases of work;

(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.

(D4) Narrative Written findings, together with any supplemental plans, maps, reports, or other information map of 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

(C) 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;

(2) Approval of any new stormwater surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian and any other agencies having authority over the matter authorized to review waste disposal systems; and
Approval of any new stormwater discharges into public right-of-ways having complied with by the each governing agencies having authority over the matter discharge review process.

§ 39.6230 — 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. 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.

(a2) 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;

(b3) 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;

(e4) 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 fill 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 attributable to development on site for a storm of ten year frequency and maintain the existing flood carrying capacity of all watercourse on or adjacent to the property.
(e5) Fills shall not encroach on natural watercourse 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.

(a7) 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.

(b8) 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.

(e9) 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 service runoff.

(d10) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

(e11) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. (a) 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;

2. (b) The buffer required in subsection (e)1. (11)(a) may only be disturbed upon the approval of a mitigation plan which utilizes erosion, sediment

(f12) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical.

(g13) 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.

(h14) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized.

(i15) 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.

(j16) 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, drainage swales, or any approved drywell systems.

(k17) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion.

(l18) 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:

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

2(b). Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule.
3(c). Dispersal of water runoff from developed areas over large undisturbed areas.

(m19) 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.

(n20) 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.

(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;

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; and

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.
Section 32. MCC 39.6235 is amended as follows:

§ 39.6235 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. 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. 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.

(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.

(C) The provisions of this section are in addition to and not in lieu of 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 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 establishment 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
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.

Section 33.  MCC 39.7200 is amended as follows:

§ 39.7200  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;

(BA)  Minimize potentially adverse effects on the public and property surrounding the fill site;

(CB)  Acknowledge that natural resources can be impacted by large fill sites;

(DC)  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;

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

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

(GF)  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.
Section 34. MCC 39.7203 is added as follows:

§ 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.

Section 35. MCC 39.7205 is amended as follows:

§ 39.7205 EXCLUDED AREAS.

Large fills shall not be allowed in:

(A) Areas designated SEC (general), SEC-s, SEC-w, or SEC-wr, or WRG;

(B) Other stream areas protected by other local, state and federal agencies;

(C) Jurisdictional wetlands which have not been approved for fill by received fill permits from The Army Corp of Engineers and Division of State Land;

(D) 100 year floodplains;

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

Section 36. MCC 39.7207 is added as follows:

§ 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.

Section 37. MCC 39.7210 is amended as follows:

§ 39.7210 APPLICATION INFORMATION REQUIRED.

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

(A) A sealed 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 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.

** * * *

(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:

** * * *

(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:

** * * *
(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 findings demonstrating how the proposal complies with MCC 39.7215; description of the project including:

(1) An explanation 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;

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

(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 constructions 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.

Section 38. MCC 39.7215 is amended as follows:

§ 39.7215 CRITERIA FOR APPROVAL LARGE FILL PERMIT STANDARDS.

The approval authority shall find that 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:

(A) The applicant demonstrates that the property shall be site 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.

**

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

2. If the roads are unsuitable for all additional traffic created by the fill operation for the duration of the activity that: 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:
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

The applicant must develop a 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 these-findings a finding of impact, the approval authority Hearing Authority may attach related conditions and restrictions of the conditional use approval.

* * *

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.

**Buffer requirements.**

* * *

The Approval Authority may grant exceptions to the screening requirements if:

* * *

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 Saturdays, on Sundays or on New Year’s Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

* * *

Air, water, and noise quality.

* * *

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 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.

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(10) Timeline.

Timelines for Large fill Conditional Use Permits shall be for a two-year period, unless otherwise approved by the Approval Authority. 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 Zoning Code.

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 Approval Authority. 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;

***

(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 Approval Authority finds that these time standards cannot be met.

***
Section 39. MCC 39.7220 is amended as follows:

§ 39.7220 MONITORING.

(A) The Planning Director shall periodically monitor all fill operations. The dates and frequency of monitoring shall be determined by the Approval Authority based upon the number and type of surrounding land uses and the nature of the fill operation. If the Director 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.

Section 40. MCC 39.7725 is amended as follows:

§ 39.7725 GENERAL REQUIREMENTS.

* * *

(J) All WCFs must comply with all applicable Multnomah County codes and regulations, including, but not limited to the Uniform Building Code, Grading and Erosion Control ground disturbing activities, Flood Hazard, and Significant Environmental Concern.

* * *

Section 41. MCC 39.7740 is amended as follows:

§ 39.7740 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

* * *

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

* * *
(b) The facility shall comply with Grading and Erosion Control ground disturbing activity regulations of MCC 39.6200 through 39.6235 when applicable;

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FIRST READING: March 7, 2019
SECOND READING AND ADOPTION: March 14, 2019

BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Katherine Thomas, Assistant County Attorney

SUBMITTED BY: Kim Peoples, Director, Department of Community Services

Page 67 of 67 - Amending MCC Chapters 38 and 39, Multnomah County Zoning Code, related to regulation of ground disturbing activity including permits for Minimal Impact Projects, Erosion and Sediment Control, Agricultural Fill, Stormwater and Drainage Control, Geologic Hazards and Large Fills.