



WASHINGTON COUNTY OREGON

October 6, 2006

To: Citizen Participation Organizations and Interested Parties

From: Mark Brown, Land Development Manager
Department of Land Use and Transportation

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 670**

Ordinance No. 670 proposes to amend the Community Development Code to streamline and clarify provisions concerning uses and exemptions from permit requirements relating to grading and drainage. The changes are necessary to assure consistency with state law.

The Board of County Commissioners (Board) ordered changes to Ordinance No. 670 at their September 19, 2006 public hearing. These changes are incorporated into A-Engrossed Ordinance 670. The changes set forth in A-Engrossed Ordinance 670 are to **not** adopt proposed changes to Section 410-1.1. This means the existing language in Section 410-1.1 would remain as is.

The Board will hold two public hearings for A-Engrossed Ordinance No. 670 at their regular meetings at **10:00 a.m. on Tuesday, October 17, 2006**, and at **6:30 p.m. on Tuesday, October 24, 2006**. The public hearings will be held in the Shirley Huffman Auditorium of the Public Services Building, located at 155 North First Avenue in downtown Hillsboro, Oregon. At the October 24th meeting, the Board may choose to adopt the ordinance, continue the hearing to a future date, order additional changes, or reject the ordinance. Testimony may be provided at the public hearing or it may be submitted in writing prior to the hearings.

If you would like more information about A-Engrossed Ordinance No. 670, please contact Jim Tice, Land Development Services Division, at (503) 846-3967, or write to the Land Development Services Division at 155 North First Avenue MS-13, Hillsboro, OR 97124-3072. An electronic copy of this ordinance is on the County's Internet site: www.co.washington.or.us/deptmts/lut/planning/ordhome.htm.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE NO. 670

An Ordinance Amending the
Community Development Code Element
of the Comprehensive Plan Relating to
Grading and Drainage

The Board of County Commissioners of Washington County, Oregon, ordains:

SECTION 1

A. The Board of County Commissioners of Washington County, Oregon, recognizes that the Community Development Code ("CDC") element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 660, 661 and 667.

B. Subsequent ongoing planning efforts of the County indicate a need for changes to the CDC element of the Comprehensive Plan to clarify provisions concerning uses and exemptions from permit requirement relating to grading and drainage. The Board takes note that such changes are necessary to assure consistency with state law and are for the benefit of the residents of Washington County, Oregon.

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1 C. Under the provisions of Washington County Charter Chapter X, the Land Use
2 Ordinance Advisory Commission has carried out its responsibilities, including preparation of
3 notices, and the County Planning Commission has conducted one or more public hearings on
4 the proposed amendments and has submitted its recommendations to the Board. The Board
5 finds that this Ordinance is based on that recommendation and any modifications made by the
6 Board, as a result of the public hearings process.

7 D. The Board finds and takes public notice that it is in receipt of all matters and
8 information necessary to consider this Ordinance in an adequate manner, and finds that this
9 Ordinance complies with the Statewide Planning Goals, and the standards for legislative plan
10 adoption, as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the Washington
11 County Charter, and the Washington County Community Development Code.

12 SECTION 2

13 The following exhibits, attached hereto and incorporated herein by reference, are
14 adopted as amendments to the designated documents as follows:

- 15 A. Exhibit 1 (3 pages) amending CDC Section 201 (Development Permit);
16 B. Exhibit 2 (1 page) amending CDC Sections 340-4.1 (Type II Uses
17 Allowed in the EFU District), 342-3.1 (Type II Uses Allowed in the
18 EFC District), 344-4.1 (Type II Uses Allowed in the AF-20 District),
19 346-3 (Type II Uses Allowed in the AF-10 District), and 348-3 (Type II
20 Uses Allowed in the AF-5 District); and
21 C. Exhibit 3 (7 pages) amending CDC Section 410 (Grading and Drainage).

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1 SECTION 3

2 All other Comprehensive Plan provisions that have been adopted by prior ordinance,
3 which are not expressly amended or repealed herein, shall remain in full force and effect.

4 SECTION 4

5 All applications received prior to the effective date shall be processed in accordance
6 with ORS 215.427 (2005 Edition).

7 SECTION 5

8 If any portion of this Ordinance, including the exhibits, shall for any reason be held
9 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
10 affected thereby and shall remain in full force and effect, and any provision of a prior land use
11 ordinance amended or repealed by the stricken portion of this Ordinance shall be revived and
12 again be considered in full force and effect.

13 SECTION 6

14 The Office of County Counsel and Department of Land Use and Transportation are
15 authorized to prepare planning documents to reflect the changes adopted under Section 2 of
16 this Ordinance, including deleting and adding textual material and maps, renumbering pages
17 or sections, and making any technical changes not affecting the substance of these
18 amendments as necessary to conform to the Washington County Comprehensive Plan format.

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1 SECTION 7

2 This Ordinance shall take effect thirty (30) days after adoption.

3 ENACTED this 24th day of October, 2006, being the 3rd reading
4 and 3rd public hearing before the Board of County Commissioners of Washington County,
5 Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

9 John Kuyper
CHAIRMAN

10 Barbara Hejtmanek
11 RECORDING SECRETARY

12 READING

PUBLIC HEARING

13 First September 19, 2006

September 19, 2006

14 Second October 17, 2006

October 17, 2006

15 Third October 24, 2006

October 24, 2006

16 Fourth _____

17 VOTE: Aye: Brian, Leeper, Schouten

Nay: _____

18 Recording Secretary: Barbara Hejtmanek Date: October 24, 2006

CDC Section 201 (Development Permit) is amended as follows to clarify grading exemptions:

201 DEVELOPMENT PERMIT

201-1 Permit Required

Except as excluded in Section 201-2, and Section 702, no person shall engage in or cause a development to occur, as defined in Section 106-57, without first obtaining a Development Permit through the procedures set forth in this Code. The Director shall not issue any permit for the construction, reconstruction or alteration of a structure or a part thereof without first verifying that a valid Development Permit has been issued. Development authorized by a Development Permit shall occur only as approved.

201-2 Exclusions from Permit Requirement

The following activities are permitted in each district but are excluded from the requirement of obtaining a Development Permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with all applicable standards, conditions and other provisions of this Code. The activities set forth below are not excluded from the requirement to obtain approval of erosion control measures to the extent the activity is subject to Section 426.

201-2.12 The following excavations or fills, except excavations or fills for public transportation facilities, provided that no excavation or fill shall occur in the flood plain, drainage hazard area or in an area specifically identified as a significant natural resource in the Community Plan or the Rural Natural Resource Plan without first obtaining a Development Permit:

- A. Excavations below finish grade for basements and footings of a building, retaining wall or other structure authorized by a valid Development or Building Permit;
- B. Cemetery graves;
- C. Excavations for wells, tunnels or utilities;
- D. Excavations or fills for public projects conducted by or under contract of the County;
- E. Exploratory excavations affecting or disturbing areas less than six thousand (6,000) square feet in size, under the direction of soil engineers or engineering geologists;
- F. Access roads developed to support forest-related activities, agricultural crop production or grazing activities, where the roads:
 - (1) Are located on property used for an interim agricultural or forest use;
 - (2) Are solely for providing access to water supplies, equipment or supply storage areas, livestock grazing areas, producing fields or orchards, or fence lines;

- (3) Do not create a cut or fill greater than three (3) feet in height visible from a public road;
- (4) Are sixteen (16) feet or less in width;
- (5) Do not divert drainage onto or cause increased erosion on adjacent properties; and
- (6) Do not discharge or threaten to discharge silt onto adjacent properties or into streams shown on the latest USGS seven and one-half (7-½) minute topographic quadrangle map;

G. Customarily accepted agricultural activities, including preparation of land for cultivation, other than grading for roadwork or pads for structures. ~~Unless waived by the Building Official (a review fee may be required),~~ These activities are subject to all of the following:

- (1) No piping of drainages serving off-site properties;
- (2) If fill is proposed, finished grade is no higher than adjacent property at the property line, or fill or excavation area is outside the district setbacks;
- (3) Preserves existing drainage pattern, including direction and flow capacity and velocity of an existing drainage swale or channel. A drainage swale is a local depression, which conveys water to or from an adjoining property. All ponds shall be located outside drainage channels;
- (4) Except for ponds, surface all material is either topsoil [i.e. the A Horizon as defined by Natural Resources Conservation Service (NRCS)] or if utilized for nursery purposes, the material is commonly used to grow nursery crops;
- (5) Fill material does not contain hazardous or contaminated substances, putrescibles or material such as asphalt, concrete or tires;
- (6) Compliance with Oregon Administrative Rule Chapter 603, Division 95 (Agricultural Water Quality Management Program);
- (7) Grading area is returned to farm use within one calendar year of commencing site grading;
- (8) Except for nursery farms, imported fill material shall not exceed five thousand (5,000) cubic yards.

H. Grading that is a soil or water conservation project regulated by the U.S. Department of Agriculture, ~~Soil Conservation Service~~ NRCS, and/or the Washington County Soil and Water Conservation District (SWCD), or a Water Quality Farm Plan approved by SWCD for a Container Nursery;

- I. An excavation which is less than two (2) feet in depth, or which does not create a cut slope greater than five (5) feet in height and steeper than one and one half (1-1/2) horizontal to one (1) vertical;
- J. A-Imported fill which does not exceed one-hundred-fifty (150) cubic yards on any one (1) lot or parcel placed, in a single year, on natural terrain and does not obstruct a drainage course, and where the fill will be:
 - (1) Less than one (1) foot in depth and placed on natural slope flatter than five (5) horizontal to one (1) vertical; or
 - (2) Less than three (3) feet in depth when not intended to support structures.
- K. Underground pipes and conduits except where such pipes or conduits would introduce an urban service outside the Urban Growth Boundary, in accordance with Section 430-105.6; and
- L. Above ground electric transmission, distribution, communication and signal lines on a single pole system where a single pole system is defined as above-ground electrical lines and their supporting concrete, wood or metal poles, but does not include self-supporting steel lattice-type structures.
- M. Farm related pipes, including but not limited to irrigation and drainage pipes, and necessary accessory structures, such as pumps.

CDC Sections 340-4.1 (Type II uses allowed in the EFU District), 342-3.1 (Type II uses allowed in the EFC District), 344-4.1, (Type II uses allowed in the AF-20 District), 346-3 (Type II uses allowed in the AF-10 District), 348-3 (Type II uses allowed in the AF-5 District) are amended to allow the following new use as follows:

NEW Unless exempt under 201-2, importing fill material as a customarily accepted farming practice or for a use allowed in the district – Section 410

CDC Sections 346-3 (Type II uses allowed in the AF-10 District), Sections 348-3 (Type II uses allowed in the AF-5 District), are amended to allow the following new use as follows:

NEW Clean Fill Site as defined by DEQ rules – Section 410

CDC Section 410 (Grading and Drainage) is amended as follows:

410 GRADING AND DRAINAGE

410-1 General Provisions

410-1.1 All grading and drainage activities are to occur pursuant to the provisions of Appendix Chapter 33 of the 1994 Uniform Building Code and the applicable State of Oregon Plumbing Code, or their successors and this Code. All grading and drainage activities on lands located within the Clean Water Services boundary shall also occur pursuant to the provisions of the "Design and Construction Standards for Sanitary Sewer and Surface Water Management" or its successor. In the event of any conflict between the provisions of this Code, the Community Plan, the Rural/Natural Resource Plan, and Appendix Chapter 33 of the 1994 Uniform Building Code, or its successor, the more restrictive standard shall prevail.

Grading applications may be processed through a two-step procedure consisting of a preliminary review (grading plan) and a final review (grading permit), unless the Director consolidates the applications into one review.

No grading and drainage activities that are subject to Section 410 shall be undertaken without a grading permit.

For Type I development, preliminary grading plans may be submitted as a stand alone application. For development reviewed through the Type II and III procedure, preliminary grading plans are to be submitted with the development application.

The purpose of a preliminary grading plan (conceptual) is to determine whether or not it is feasible to comply with the grading permit review standards of Section 410-3. Full engineering drawings are not required at the preliminary review stage. However, preliminary grading plans shall be accurate enough to provide a basis for determining whether or not the proposed activity, as designed and to be implemented, will meet the applicable Code requirements for a grading permit.

All grading permit applications (the second step) shall include detailed plans, per Section 410-2, rather than preliminary grading plans.

410-1.2 Grading Plan

The grading plan shall include:

A. A vicinity map.

B. A site plan which includes the following:

- (1) A graphic representation drawn to a scale which is noted on the drawing. In all cases the scale used shall be standard, being ten (10), twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet to the inch or multiples of ten (10) of any one of these scales;

- (2) Except as required by Section 421, applications for land inside the UGB shall show existing and proposed topography using the following contour intervals:
 - (a) For slopes of five (5) percent or less, contour intervals not more than one (1) foot; or
 - (b) For slopes greater than five (5) percent and up to and including ten (10) percent, contour intervals not more than two (2) feet; or
 - (c) For slopes greater than ten (10) percent, contour intervals not more than five (5) feet.
- (3) Except as required by Section 421, applications for land outside the UGB shall show existing and proposed topography using the following contour intervals:
 - (a) For slopes of ten (10) percent or less, generalized existing contours and drainage channels, including areas of the subject site and adjoining properties that will be affected by the disturbance either directly or through drainage alterations; or
 - (b) For slopes greater than ten (10) percent, contour intervals not more than five (5) feet.
- (4) Proposed elevations after grading is completed, including any modifications to drainage channels;
- (5) Any required retaining walls or other means of retaining cuts or fills including typical cross sections;
- (6) Typical cross sections showing existing and proposed elevations. Cross sections are to be taken through the areas that will show the most detail of the grading project;
- (7) The site plan shall show the area of the site where construction, grading, cut or fill is proposed, plus a minimum of fifty (50) feet surrounding the area;
- (8) Flow lines of surface waters onto and off the site;
- (9) Proposed building pad, areas with an impervious surface and existing and proposed finished floor and street elevations if building or parking construction is proposed;
- (10) Existing and proposed water quality sensitive areas, vegetated corridors, and drainage channels including drainage swales, wetlands, ditches and berms;
- (11) Location and design of any proposed facilities for storage or for conveyance of runoff into indicated drainage channels, including sumps, basins, channels, culverts, ponds, storm drains and drop inlets;

- (12) Location of any buildings or structures, parking areas or accessways existing or proposed on the site within fifty (50) feet of the area that may be affected by the proposed grading operations;
- (13) Location of any proposed streets; and
- (14) Location of any proposed stockpile areas, either on site or off.

C. Written narrative and/or supplemental information including all of the following:

- (1) Explanation of the reason for the proposed grading, which must be an allowed use in the district;
- (2) Estimates of surface area disturbed by proposed grading and total parcel size;
- (3) Estimates of cut/fill volume in cubic yards; and
- (4) Estimates of existing and increased runoff resulting from the proposed improvements.
- (5) Soil Map, including a soil survey legend, range of percent slopes (e.g., three [3] to seven [7] percent slopes), and soil description if no limitations exist from the USDA, Soil Conservation Service, Soil Survey Report, Washington County, July 1982. Soil limiting features must address depth to bedrock from pages 120-123 from the report, and other features which may be restrictive to construction, drainage and revegetation of property;
- (6) Provision for saving the site topsoil (surface 12") for later revegetation and landscaping, including the locations of any temporary stockpile areas;
- (7) Provisions for the disposal of excavated material, including the location of disposal;
- (8) Written statement demonstrating the feasibility of complying with Section 410-3. Demonstrating feasibility does not require detailed solutions, but there must be enough information for the review authority to find that solutions to problems are possible and likely.

D. Erosion Control Plan:

- (1) For areas inside the Tualatin River and Oswego Lake sub-basins, an erosion control plan as required by Section 426 shall be submitted.
- (2) For areas outside the Tualatin River and Oswego Lake sub-basins, an erosion control plan that complies with the requirements of the "Washington County Erosion Control Plans Technical Guidance Book," January 1991, or its successor, is required when:

- (a) Grading requiring a permit is proposed to be conducted or left in an unfinished state during the period from October 1 through May 1; or
- (b) Land disturbance activities are conducted in geologically unstable areas, on slopes in excess of twenty (20) percent, or there is disturbance of more than six-thousand (6,000) square feet of development area, or within fifty (50) feet of any drainage hazard area or flood plain area.

E. A request for an imported fill material more than 5,000 CY in an EFU or AF-20 District shall be accompanied by a written recommendation from the Soil and Water Conservation District.

F. A request for a Clean Fill Site shall include a reclamation schedule.

410-1.3 Exemptions from Grading Plan and Permit Requirements:

In addition to those activities listed in Section 201-2.12, the following are exempt from Section 410 except as necessary to address Section 410-3.8:

- A. Refuse disposal sites approved by the County;
- B. Excavations or fills for public roads and transportation facilities substantially in the public right of way or as shown on a Transportation Plan or adopted Public Facility Plan, together with piping and culverting, accessory drainage systems such as catch basins, and necessary accessory structures and easements or other public projects conducted or approved by the County or public facilities and service projects such as sewer and water lines;
- C. Surface mining operations approved in accordance with this Code;

410-1.4 Private Street Ditch Standards

- A. Existing roadside ditches alongside new development or the construction of new roadside ditches shall:
 - (1) Be constructed to pass all required flows;
 - (2) Have a maximum depth of no more than two (2) feet as measured from the shoulder of the road;
 - (3) Have side slopes no steeper than 2:1;
 - (4) Have sufficient grade to provide for water conveyance; and
 - (5) Have a maximum flow velocity when flowing full that does not exceed the erosive velocity limits of soils in the ditch. "Open Channel Hydraulics" by V. T. Chow, McGraw Hill Book Company, Inc., 1988, is presumed to be the best available reference for maximum permissible velocity.

- B. Any proposed roadside ditch improvement that does not meet the requirements in Section 410-1.4 A. shall be piped.
- C. All proposed or modified ditches shall have adequate erosion control provisions to prevent potential damage to the shoulder of the adjacent road as well as the ditch.
- D. No pipes, culverts or other structures shall be permitted to protrude into a ditch.

410-2 Grading Permit - Application Content

410-2.1 The grading permit plans shall be detailed (final drawings) rather than preliminary drawings (conceptual). The grading permit is to be prepared and certified by a registered civil engineer, and is to include specifications covering soils engineering or engineering geology construction and material requirements in addition to the information required in Section 410-1.2 where:

- A. The grading will move more than five thousand (5,000) cubic yards or more; or
- B. Is located on slopes of twenty (20) percent or greater; or
- C. Grading for public improvements such as public roads, tracks, ponds and drainage facilities; or
- D. Is within an identified hazard area, or is located within a Flood Plain or Drainage Hazard area; or
- E. The Building Official determines that special conditions or unusual hazards exist.

If none of these conditions apply, then the plans need not be prepared by a registered civil engineer. Outside the UGB, the Building Official may determine that an engineer's certification is not required for Section 410-2.1 A.

410-2.2 In addition to the grading plan requirements of Section 410-1.2, and application for a grading permit shall include:

- A. If required by the Building Official, a compaction report where a site is proposed to be filled to be used for a building pad;
- B. If required by the Building Official, a soil engineering report, including data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading;
- C. If required by the Building Official, an engineering geology report, including a description of site geology, conclusion and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading; and

- D. Intended means of revegetation, pursuant to Section 410-3.4, including the location, species, container size and quantity of plant materials proposed, and the proposed time of planting.

410-3 Criteria for Approval

A grading permit, which shall apply only to the area of the site where construction, grading, cut or fill is proposed, may be issued only after the Review Authority finds:

- 410-3.1 The extent and nature of proposed grading is appropriate to the use proposed, and will not create site disturbance to an extent greater than that required for the use;
- 410-3.2 Proposed grading will not cause erosion to any greater extent than would occur in the absence of development or result in erosion, stream sedimentation, or other adverse off-site effects or hazards to life or property; and
- 410-3.3 Appropriate siting and design safeguards shall ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions:
- A. Seasonal, perched, high or apparent water table;
 - B. High shrink-swell capability;
 - C. Low bearing strength such as compressible organic; or
 - D. Shallow depth-to-bedrock.
- 410-3.4 Revegetation:

Where natural vegetation has been removed through grading in areas not affected by the landscaping requirements and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed.

A. Preparation for Revegetation:

In preparation for grading and construction, top soil removed from the surface twelve (12) inches shall be stored on or near the sites and protected from erosion while grading operations are underway. Such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.

B. Methods of Revegetation:

Acceptable permanent or temporary vegetation measures appropriate for the site and soil drainage conditions shall be seeded and fertilized by September 1st of each year. Establishment or green growth should take place by October 1st of each year, but is dependent upon suitable fall moisture. Where lawn or turf grass

is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four (4) pounds to each one thousand (1,000) square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Review Authority. Plant materials are to be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to be used to reduce irrigation demands.

410-3.5 Final Contours:

Contours, elevations and shapes of finished surfaces are to be blended with adjacent terrain consistent with land use and surface water management requirements to achieve a consistent grade and transition to the adjacent properties. Tops of cut slopes and bottoms of fills are to be rounded off to a minimum radius of five (5) feet to blend with the natural terrain. This section is not applicable to retaining walls.

410-3.6 Except for permitted piping and culverting, the proposed grading protects and preserves existing natural drainage channels;

410-3.7 The proposed grading will preserve the functioning of off-site drainage courses or bodies of water;

410-3.8 Comply with the applicable standards for permanent storm water quality control facilities adopted by the Oregon State Department of Environmental Quality, as set forth in OAR 340-41-345(4)(a-e). This standard is satisfied by submittal of a service provider letter from the Clean Water Services indicating the proposed development is in compliance with DEQ requirements or will be in compliance when the requirements set forth in the service provider letter are met.

410-3.9 Clean Fill Sites:

A. Sites approved for more than 5,000 CY shall have direct access to a collector or arterial road;

B. Each phase of the operation shall be reclaimed within one (1) year after fill activities cease on any segment of the project area.