



**JEFFERSON COUNTY**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

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## **Unified Development Code Interpretation**

This interpretation is made according to Section 8.6 of the Unified Development Code (UDC). An interpretation of the provisions of the UDC is intended to clarify conflicting or ambiguous wording, interpret proper classification of a use, or interpret scope or intent. The “Factors for Consideration” listed in UDC 8.6.2.c were considered in making this UDC interpretation, including applicable policies of the Jefferson County *Comprehensive Plan*.

Date: September 26, 2003  
Applicant: Dale Wilde  
Representatives: Craig Jones, Graham & Dunn PC  
Subject: Clearing, Grading and Stormwater Management

### UDC Section: Section 6.6 Grading and Excavation Standards

**1. Does Section 6.6 govern a property owner installing a small garden on their property?**

Yes, if the activity proposed is not exempt under §6.6.5.

**If so, what triggers the need for a grading permit?**

The Unified Development Code (or “UDC”) does not use the term grading permit and does not require an applicant to obtain a ‘grading’ permit. In future answers, the UDC Administrator will state that the “UDC does not contain a grading permit” to convey this concept.

**Is a grading permit required even when no additional impervious surfaces are created?**

While the UDC does not have a grading permit, the presence or absence of additional impervious surface will not determine if a storm water management permit is needed. Instead, look to UDC §6.6 and §6.7.

**2. Does Section 6.6 govern a property owner installing a new lawn at their residence or other property not on the same legal parcel as the residence?**

Yes if the activity proposed is not exempt under §6.6.5.

**If so, what triggers the need for a grading permit?**

The UDC does not have a grading permit.

**Is a grading permit required even when no additional impervious surfaces are created?**

While the UDC does not contain a grading permit, the presence or absence of additional impervious surface will not determine if a storm water management permit is needed. Instead, look to UDC §6.6 and §6.7, which would state that a storm water management permit is needed unless the hypothetical project is defined as exempt under Section 6.6.5(b), or within the Stormwater Management Manual for Western Washington (Manual).

**3. Does Section 6.6 govern non-commercial agriculture activities on properties, such as cultivating or planting a field from a vineyard, orchard, row crops, nurseries, other agricultural commodities, pastures, property buffers or similar uses, regardless of the size of the parcel or acreage included in the agricultural activities?**

Yes.

**If so, what triggers the need for a grading permit?**

The UDC does not contain a grading permit.

**Is a grading permit required even when no additional impervious surfaces are created?**

While the UDC does not contain a grading permit, the presence or absence of additional impervious surface will not determine if a storm water management permit is needed. Instead, look to UDC §6.6 and §6.7, which would state that a storm water management permit is needed unless the hypothetical project is defined as exempt under Section 6.6.5(b), or within the Stormwater Management Manual for Western Washington (Manual) or does not exceed the thresholds described within the Manual. Furthermore, UDC §6.6.4 requires a storm water management permit if the project were undertaken within an environmentally sensitive area, regardless of whether the hypothetical project is of a size larger or smaller than the triggering thresholds identified within Sections 6.6 & 6.7 of the UDC and Section 2 of the Manual.

**4. Would a property owner seeking to cultivate a small parcel, i.e., one acre or less, for non-commercial gardening or agricultural related activities involving grading of 500 or more cubic yards be required to undergo environmental review prior to commencement?**

Yes, if the proposal were not found exempt from Section 6.6 or exempt under WAC 197-11-800, the administrative code relating to the State Environmental Policy Act (SEPA), the project would be subject to the provisions identified under UDC §6.6.

**5. Would a property owner seeking to cultivate a small parcel, i.e., one acre or less, for non-commercial gardening or agricultural related activities involving grading of 500 or more cubic yards be required to obtain a stormwater management permit?**

Yes, the project would be subject to the storm water management permit provisions identified under UDC §6.6 and UDC §6.7 and the Manual.

**6. Would a property owner, or the County under a county-wide program, be required to obtain a grading permit to undertake a program for elimination of noxious weeds if the activities involved grading of 500 or more cubic yards?**

The UDC does not contain a grading permit. A storm water management permit would be required.

**If so, what triggers the need for a grading permit?**

The UDC does not contain a grading permit. The triggering fact is that more than 500 cubic yards of soil or dirt will be graded. Additionally, if the methods employed were not exempt pursuant to the Manual, then a stormwater management permit would be required.

**7. Is there any acreage threshold or activities exempted from the application of Section 6.6, or the requirement to obtain a stormwater management permit in conjunction with activities involving grading of 500 cubic yards or more?**

While UDC §6.6.5 lists the exemptions, none of those exemptions are based upon the size of a parcel.

**8. Is there a threshold at which Section 6.6 becomes governing? If so, what is the threshold?**

The rules of UDC §6.6 apply to any hypothetical project unless that project is exempt pursuant to either that UDC Section or the Manual.

**9. What is the definition of “project” for purposes of Section 6.6?**

“Project” is defined under the Stormwater Management Manual for Western Washington as, “Any proposed action to alter or develop a site. The proposed action of a permit application or an approval, which requires drainage review.”

UDC Section: Section 6.7 –Stormwater Management Standards

**1. Does Section 6.7.6 require a property owner to obtain a stormwater management permit for installation of a small garden at his residence or on a separate legal parcel, where the installation involves land-disturbing activities on 10,000 square feet or greater (about a ¼ acre)?**

Yes, pursuant to UDC §6.7.5.

**If so, what triggers the need for a stormwater management permit?**

The size of the hypothetical garden because it will be larger than 7,000 square feet.

**Is a stormwater management permit required even when no additional impervious surfaces are created?**

Yes, a storm water management permit would be required unless exempted under Section 6.7.2 of the UDC or Section 2.2 of the Stormwater Management Manual of Western Washington as adopted through Ordinance No. 02-0210-03. Those sections indicate that the presence or absence of additional impervious surface does not, of and by itself, determine whether such a County-issued storm water management permit is needed.

**2. Does Section 6.7.6 require a property owner to obtain a stormwater management permit for installation of a new lawn at his residence or on a separate legal parcel, where the installation involves land-disturbing activities on 10,000 square feet or greater (about a ¼ acre)? If so, what triggers the need for a stormwater management permit? Is the stormwater management permit required even when no additional impervious surfaces are created?**

The answers to the three previous questions apply equally to these three questions.

**3. Does Section 6.7.6 require a property owner to obtain a stormwater management permit to conduct non-commercial agricultural activities on properties, such as cultivating or planting a field for a vineyard, orchard, row crops, nurseries, other agricultural commodities, pastures, property buffers or similar uses, where the activities involve land-disturbing activities of 10,000 square feet or greater (about ¼ acre)? If so, what triggers the need for a stormwater management permit? Is a stormwater management required even when no additional impervious surfaces are created?**

The answer to Question 2 above also contains the correct answer to these three questions.

**4. Does Section 6.7.6 require a property owner to obtain a stormwater management permit when converting from one use activity to another, such as agricultural to timber, farm to garden, pasture to lawn, or similar activities, where the conversion activity involves land-disturbing activities on 10,000 square feet or greater (about ¼ acre)? If so, what triggers the need for a stormwater management permit? Is a stormwater management permit required even if no new impervious surfaces are created?**

Section 2.4 of the Manual identifies thresholds for stormwater projects. Thresholds found in the Manual (and not the UDC) are different for converting native vegetation to lawn, or native vegetation to pasture. A storm water management permit would be required unless the hypothetical project was determined to be exempt under UDC §6.7.2 or Section 2 of the Manual.

**5. Does Section 6.7(6) require a property owner to obtain a new stormwater management permit for periodic non-commercial farming activities, such as re-tilling, re-planting, re-cultivating, etc., which typically occur on a seasonal basis, where the activities involve land-disturbing activities on 10,000 square feet or greater (about ¼ acre)? If so, what triggers the need for a stormwater management permit? Also, how often are the new stormwater management permits required?**

If the hypothetical disturbance exceeds the thresholds identified in Sections 6.7.3 of the UDC or Section 2 of the Manual or was occurring in an environmentally sensitive area as listed in UDC §6.6.4, then a storm water management permit would be required upon the first tilling or cultivating of the ground. That permit would include best management practices and other items listed in UDC §6.6 that would permanently apply to that hypothetical garden and thus an annual permit would not be required. If the hypothetical garden was merely “vegetative maintenance,” then the project would be exempt from stormwater requirements.

**6. Does Section 6.7.6 require a property owner to obtain a stormwater management permit for installation of a septic permit at his residence or on a separate legal parcel, where the installation involves land-disturbing activities on 10,000 square feet or greater (about ¼ acre)? If so, what triggers the need for a stormwater management permit?**

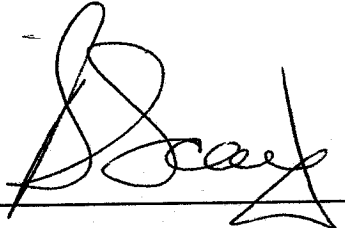
Yes, if the proposal conducts “land disturbing” activities of 7,000 square feet or more, then a storm water management permit would be required.

**7. Would a property owner, or the County under a county-wide program, be required to obtain a stormwater management permit to undertake a program for elimination of noxious weeds if the activities involved grading of 500 or more cubic yards? If so, what triggers the need for a grading permit?**

Yes, a storm water management permit would be required unless the hypothetical project was found to be exempt under Section 6.7.2 of the UDC or Section 2.2 of the Stormwater Management Manual of Western Washington as adopted through Ordinance No. 02-0210-03.

**8. Are there any exemptions, other than those contained in Sections 6.6.5(b) and 6.7.2, available to a property owner?**

Section 2.2 of the Stormwater Management Manual of Western Washington identifies exemptions from stormwater management standards.

 9/26/03  
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Al Scalf, UDC Administrator

This person requesting this Code Interpretation has certain rights of appeal. They are described in detail at UDC §8.6.

Cc: David Alvarez, Deputy Prosecutor