



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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## NOTICE OF ADOPTED AMENDMENT

03/26/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Multnomah County Plan Amendment  
DLCD File Number 007-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, April 11, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Lisa Estrin, Multnomah County  
Jon Jinings, DLCD Community Services Specialist  
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

**DATE STAMP**

**DEPT OF**

**MAR 22 2013**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Multnomah County**

Local file number: **PC 2012-2395**

Date of Adoption: **3/14/2013**

Date Mailed: **3/20/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 10/3/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Chapter 35 (East of Sandy River [ESR]Zoning Code) in order to bring it into conformance with the ESR Rural Area Plan Policies 16 and 17 adopted in 1998. The proposed code amendments will allow a farm stand on all properties currently in farm use in the Multiple Use Agriculture - 20, Rural Residential, and Springdale Rural Center zone. In addition, EFU style farm stands with fee based activities and incidental sales will be allowed along the Hist Columbia River Hwy and adjacent areas.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

**1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

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**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: **Lisa Estrin**

Phone: (503) 988-3043 Extension: 22597

Address: **1600 SE 190th**

Fax Number: 503-988-3389

City: **Portland**

Zip: **97233-**

E-mail Address: **[lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us)**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

**ORDINANCE NO. 1198**

Amending MCC Chapters 33-36 Relating to Exclusive Farm Use Zones, MCC Chapter 35 Relating to Non-EFU Farm Stands and Alternative Energy Systems; and MCC Chapters 33, 34 and 36 Relating to Wildlife Habitat.

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

**The Multnomah County Board of Commissioners Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 37.0710, and 38.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Periodically there is a need to amend the County Land Use Planning Code (Zoning Code) provisions due to changing circumstances or for general housekeeping purposes such as technical corrections, clarifications and consistency. This ordinance incorporates three packages of legislation recommended by the Planning Commission: PC 2012-2394 and PC 2012-2395, *Relating to Exclusive Farm Use zones (EFU) and non-EFU Farm Stands*; PC 2011-1796a, *Relating to Alternative Energy Systems*; and PC 2012-2248, *Relating to the Wildlife Habitat Significant Environmental Concern Overlay*.
- c. Through PC 2012-2394, the Planning Commission has recommended legislation for the local implementation of changes to the state Exclusive Farm Use laws adopted by the Oregon legislative assembly during the 2011 legislative session (HB 3290, SB 640, and HB 3408). The recommended legislation is intended to alter the farm income standard for obtaining three types of farm dwellings on "high-value" and "not-high value" farmland, allow a lot size exception for Fire Service Facilities providing rural fire protection services, and add irrigation reservoirs for irrigating off-site farmland as an Allowed Use.
- d. Through PC 2012-2395, the Planning Commission has recommended legislation to implement Policy 16 and 17 from the East of Sandy River Rural Area Plan. The recommended legislation is intended to add farm stand use to the Multiple Use Agriculture-20, Rural Residential and Springdale Rural Center zones to allow for more intensive farm stand activity with sales of incidental items and fee-based activities along the Historic Columbia River Highway corridor in a manner similar to the farm stand use allowed in the Exclusive Farm Use zone.
- e. Through PC 2011-1796a, the Planning Commission has recommended legislation to make the regulation of alternative energy systems in the East of Sandy River Rural Area consistent with the regulation of such systems in other areas of the county. Specifically, the recommended legislation is intended to provide an exception to obtaining a Significant Environmental Concern permit in the East of Sandy River zoning code provided that the alternative energy system meets various design criteria and uses non-reflective or low-reflective materials.
- f. Through PC 2012-2248, the Planning Commission has recommended legislation to update the Wildlife Habitat Significant Environmental Concern overlay that has remained essentially unchanged since its application to the West Hills Area in 1996 and the Sauvie Island Area in 2002. The recommended legislation is intended to clarify certain provisions, standardize exemptions, and improve the permit processing time for property owners while reducing costs to the County and its customers. Further, the recommended legislation maintains existing protection measures for conflicting uses and provides

optional mitigation measures for properties with unique physical characteristics that prevent compliance with certain non-discretionary standards.

- g. The Planning Commission conducted public hearings in which all interested persons were given an opportunity to appear and be heard as follows: PC 2012-2394 and 2012-2395 on December 3, 2012; PC 2011-1796a on November 5, 2012; and PC 2012-2248 on December 3, 2012. Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the County Land Use Planning Program website. No mailed notice to individual property owners was required since no regulations are being proposed that further restrict the use of the property.
- h. The Board agrees with the Planning Commission's recommendations and agrees with the Planning Commission that this ordinance is needed.

**Multnomah County Ordains as Follows:**

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**PART I – RELATING TO EXCLUSIVE FARM USE ZONES (EFU) AND NON-EFU FARM STANDS**

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**Section 1.** MCC 33.2625, 34.2625, 35.2625 and 36.2625 are amended as follows:

**33.2625 REVIEW USES**

**34.2625 REVIEW USES**

**35.2625 REVIEW USES**

**36.2625 REVIEW USES**

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years, ~~or three of the last five years,~~ or the average farm income earned on the tract in the best three of the last five years; and

\* \* \*

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, ~~or three of the last five years,~~ or the average farm income earned on the tract in the best three of the last five years the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

\* \* \*

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in at least three of the last five years, in each of the last two years, or the average farm income earned on the tract in the best three of the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

\* \* \*

(E) Accessory farm dwellings, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(4) In addition to the requirements in (1) through (3) in this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years, ~~or three of the last five years,~~ or the average farm income earned on the tract in the best three of the last five years the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years, ~~or three of the last five years~~ or the average farm income earned on the tract in the best three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

**Section 2.** MCC 33.2665, 34.2665, 35.2665 and 36.2665 are amended as follows:

**33.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES**

(A) Lots less than the minimum lot size specified in MCC 33.2660 (A) may be created for uses listed in MCC 33.2620(V), MCC 33.2630(C) and MCC 33.2630 (E) based upon:

- (1) ~~The site size needs of the proposed use~~ The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 33.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

**34.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES**

(A) Lots less than the minimum lot size specified in MCC 34.2660 (A) may be created for uses listed in MCC 34.2620(V), MCC 34.2630(C) and MCC 34.2630 (E) based upon:

- (1) ~~The site size needs of the proposed use~~ The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 34.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

**35.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES**

(A) Lots less than the minimum lot size specified in MCC 35.2660 (A) may be created for uses listed in MCC 35.2665(V), MCC 35.2630(C) and MCC 35.2630 (E) based upon:

- (1) ~~The site size needs of the proposed use~~ The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 35.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

**36.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES**

(A) Lots less than the minimum lot size specified in MCC 36.2660 (A) may be created for uses listed in MCC 36.2620(U) and MCC 33.2630(C) based upon:

- (1) ~~The site size needs of the proposed use~~ The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 36.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

**Section 3.** MCC 33.2620(W), 34.2620(W), 35.2620(W) and 36.2620(V) are amended as follows:

**33.2620 ALLOWED USES**

**34.2620 ALLOWED USES**

**35.2620 ALLOWED USES**

(W) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

**36.2620 ALLOWED USES**

(V) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

**Section 4.** MCC 35.3125 is amended as follows:

**35.3125 REVIEW USES**

(C) Wholesale or retail sales, limited to those products raised or grown on the premises, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to ~~MCC 35.0785 and 35.0790~~ 37.0640.

**Section 5.** MCC 35.3325 is amended as follows:



**35.3325 REVIEW USES**

(B) Wholesale or ~~retails~~ retail sales, limited to those products raised or grown on the premises, subject to the following:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to MCC ~~35.0785 and 35.0790~~ 37.0640.

**Section 6.** MCC 35.2825 is amended as follows:

**35.2825 REVIEW USES**

(C) Wholesale or retail sales of farm or forest products raised or grown on the premises, In addition, farm crops or livestock from other farm operations located in Multnomah County or in the adjacent counties of Oregon or Washington bordering on Multnomah County ~~immediate vicinity~~, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Planning Director may be appealed to the approval authority, pursuant to MCC ~~35.0785 and 35.0790~~ 37.0640.

**Section 7.** MCC 35.2830 is amended as follows:

**35.2830 CONDITIONAL USES**

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(F) A farm stand subject to MCC 35.6750 and MCC 35.6760.

**Section 8.** MCC 35.3130 is amended as follows:

**35.3130 CONDITIONAL USES**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

(E) A farm stand subject to MCC 35.6750 and MCC 35.6760.

**Section 9.** MCC 35.3330 is amended follows:

**35.3330 CONDITIONAL USES**

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards. Commercial and industrial uses shall be limited to small-scale low impact as defined in MCC 35.0005.

(E) A farm stand subject to MCC 35.6750 and MCC 35.6760.

**Section 10.** MCC 35.6750 and 35.6760 are added as follows:

**FARM STANDS**

**§ 35.6750 DEFINITIONS**

(A) Local agricultural area - Oregon or an adjacent county in Washington that borders Multnomah County.

(B) Farm crops or livestock - Both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

**§ 35.6760 CRITERIA FOR APPROVAL**

(1) The parcel where the farm stand is located is adjacent to the Historic Columbia River Highway (Highway) or has road frontage on a County maintained road that intersects with the Highway. A portion of the parcel's road frontage shall be within 500 feet, as driven, from the Historic Columbia River Highway.

(2) The farm stand is designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total sales of the farm stand.

(3) A farm stand operation that includes fee-based activities shall be located on a lot with a minimum lot size of five acres and 75 percent of the lot must be used in the farm operation. The farm stand shall be open for retail sales of farm crops and livestock during all hours that fee-based activities are offered.

(4) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(5) The proposed farm stand shall meet the criteria in MCC 35.6315.

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**PART II – RELATING TO ALTERNATIVE ENERGY SYSTEMS**

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**Section 11.** MCC 35.4515 is amended as follows:

**35.4515 EXCEPTIONS**

(A) Except as specified in (B) below, an SEC permit shall not be required for the following:

(16) In the SEC district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:

(a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

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**PART III – RELATING TO THE WILDLIFE HABITAT SIGNIFICANT ENVIRONMENTAL CONCERN OVERLAY**

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**Section 12.** MCC 33.4525 is amended as follows:

**33.4525 APPLICABLE APPROVAL CRITERIA**

(A) The approval criteria that apply to uses in areas designated SEC-w, SEC-v, SEC-h and SEC-s on Multnomah County zoning maps shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

| Zoning Designation       | Approval Criteria (MCC#)  |
|--------------------------|---|
| SEC-w (wetlands)         | 33.4560   |
| SEC-v (scenic views)     | 33.4565   |
| SEC-h (wildlife habitat) | <u>Type I Permit – 33.4567</u><br><u>Type II Permit - 33.4570</u> |
| SEC-s (streams)          | 33.4575   |

**Section 13.** MCC 34.4525 is amended as follows:

**34.4525 APPLICABLE APPROVAL CRITERIA**

\* \* \*

(B) The approval criteria that apply to uses in areas designated SEC-w, SEC-v, SEC-h and SEC-s on Multnomah County zoning maps shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

| Zoning Designation       | Approval Criteria (MCC#)                            |
|--------------------------|---|
| SEC-w (wetlands)         | 34.4560   |
| SEC-v (scenic views)     | 34.4565   |
| SEC-h (wildlife habitat) | <u>Type I – 34.4567</u><br><u>Type II - 34.4570</u> |
| SEC-s (streams)          | 34.4575   |

**Section 14.** MCC 36.4505 is amended as follows:

**36.4505 AREA AFFECTED.**

The SEC overlay zone shall apply to those lands designated SEC-sw, SEC-wr, and SEC-h on the Multnomah County Zoning Map.

(A) The approval criteria that apply to uses in areas designated SEC-sw, SEC-wr, and SEC-h shall be based on the type of protected resources on the property, as indicated by the subscript letter in the zoning designation, as follows:

| zoning designation       | approval criteria-MCC  |
|--------------------------|--|
| SEC-sw (scenic waterway) | 36.4545  |
| SEC-wr (water resource)  | 36.4550 and 36.4555  |
| SEC-h (wildlife habitat) | <u>Type I Permit – 36.4557</u><br><u>Type II Permit – 36.4550</u><br>and 36.4560 |

**Section 15.** MCC 33.4515 is amended as follows:

**33.4515 EXCEPTIONS**

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

(8) ~~Uses legally existing~~ With respect to a structure lawfully established on or before January 7, 2010; provided, however, that any change, expansion, or alteration or expansion of such use structure. (except for changes to a structure that:

~~{1}(a) for~~ For the SEC, SEC-w, and SEC-v overlays, does not require any ~~modification~~ alteration or expansion of the exterior of the structure; and

~~{2}(b) for~~ For the SEC-h and SEC-s overlays, ~~require~~ result in the ~~addition~~ alteration or expansion of less than 400 square feet or less of the structure's ground coverage to the structure) shall require an SEC permit as provided herein; ~~With respect to expansion, this exception does not apply on a project-by-project basis, but rather extends only to a maximum of 400 square feet of additional ground coverage as compared to the structure's ground coverage on the date above;~~ and

~~(c) For the SEC-h overlay, alteration or expansion of 400 square feet or less of a driveway;~~

\* \* \*

~~(10) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the a structure;~~

\* \* \*

~~(17) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and landscaped areas that were in existence prior to the effective date of this ordinance;~~

**Section 16.** MCC 34.4515 is amended as follows:

**34.4515 EXCEPTIONS**

An SEC permit shall not be required for the following:

\* \* \*

~~(H) Uses legally existing~~ With respect to a structure lawfully established on or before November 17, 1994; provided, however, that any change, expansion, or alteration or expansion of such use structure, (except for changes to a structure which that:

~~(1) for~~ For the SEC, SEC-w, and SEC-v overlays does not require any ~~modification~~ alteration or expansion of to the exterior of the structure; and

~~(2) for~~ For the SEC-h and SEC-s overlays, ~~result in~~ require the ~~addition~~ alteration or expansion of less than 400 square feet or less of the structure's ground coverage to the structure) shall require an SEC permit as provided herein; ~~With respect to expansion, this exception does not apply on a project-by-project basis, but rather extends only to a maximum of 400 square feet of additional ground coverage as compared to the structure's ground coverage on the date above; and~~

~~(3) For the SEC-h overlay, alteration or expansion of 400 square feet or less of a driveway;~~

(I) All type A Home Occupations;

~~(J) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure;~~

(K) Alteration, repair, or replacement of septic system drainfields due to system failure;

(L) Single utility poles necessary to provide service to the local area;

(M) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width;

(N) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;

(O) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards. This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County; and

(P) Routine repair and maintenance of structures, roadways, driveways, utility facilities, and lawns that were in existence prior to the effective date of this ordinance.

**Section 17.** MCC 36.4520 is amended as follows:

**36.4520 EXCEPTIONS.**

An SEC permit shall not be required for the following:

(J) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure;

(O) Single utility poles necessary to provide service to the local area.

**Section 18.** MCC 36.4525 is amended as follows:

**36.4525 EXISTING USES.**

Uses that legally existed on January 1, 2003, that are not included as Exceptions in section 36.4520, may utilize the provisions of this section. This section is intended to define the circumstances under which existing development can be improved or replaced under limited requirements in recognition of the pre-existing status. The SEC provisions are also not intended to make existing uses non-conforming. However, approval of proposals for alteration of uses that were non-conforming prior to the SEC ordinance, must obtain an SEC permit in addition to demonstrating compliance with the non-conforming use provisions of this Chapter.

(A) Change, expansion, or alteration of existing uses shall require an SEC permit as provided in 36.4500 through 36.4560, except for changes to a structure as described in Sections (1) ~~or (2)~~ through (3) below;

(1) In areas subject to the provisions of the SEC-sw, change, or alteration of existing uses which do not require any modification to the exterior of the structure;

(2) Within the SEC-wr and SEC-h - addition of less than 400 square feet of ground coverage to the structure. This provision is intended to allow a maximum of 400 square feet of additional coverage to the structure that existed on the effective date of this ordinance; and

(3) For the SEC-h overlay, alteration or expansion of 400 square feet or less of such driveway;

**Section 19.** MCC 33.4567, 34.4567, 36.4567 are added as follows:

**33.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.**

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

**34.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.**

At the time of submittal, the applicant shall provide the application materials listed in MCC 34.4520(A) and 34.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 34.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 34.4570 may be submitted.

**36.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.**

At the time of submittal, the applicant shall provide the application materials listed in MCC 36.4540(A) and (D). The application shall be reviewed through the Type I procedure and may not be authorized unless the following are met:

(A) The proposed development meets the standards listed in 36.4560(A)(1) through (5);

(B) The proposed development shall meet the applicable storm water and grading and erosion control requirements of MCC Chapter 29. Ground disturbance within 100 feet of a watercourse as defined by MCC 29.351 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15<sup>th</sup>.

(C) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal plane. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.

(D) The nuisance plants in 36.4550, Table 1, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-h Overlay Zone;

For development that fails to meet all of the standards listed above, a separate land use application pursuant to MCC 36.4560 may be submitted.

**Section 20.** MCC 33.4570 and 34.4570 are amended as follows:

**33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT**

(A) In addition to the information required by MCC 33.4520(A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

\* \* \*

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

\* \* \*

(3) The wildlife conservation plan must demonstrate the following:

\* \* \*

(4) For a property meeting (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to MCC 33.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(4) (5) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

#### 34.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

(A) In addition to the information required by MCC 34.4520(A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

\* \* \*

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.



(1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

\* \* \*

(3) The wildlife conservation plan must demonstrate the following:

\* \* \*

(4) For a property meeting (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 34.4570(B)(6).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to MCC 34.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

~~(4)~~ (5) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

**Section 21.** MCC 36.4560 is amended as follows:

**36.4560 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT.**

Development within areas designated SEC-h shall comply with the provisions of this section. An application shall not be approved unless it contains the information in 36.4540(A) and (D).

\* \* \*

(B) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of Section (A) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

\* \* \*

(3) The wildlife conservation plan must demonstrate the following:

\* \* \*

(4) For a property meeting (B)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 36.4560(A)(4).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to MCC 36.4560(A)(5), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

~~(4)~~ (5) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.

FIRST READING:

February 28, 2013

SECOND READING AND ADOPTION:

March 14, 2013



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:

JENNY M. MORF, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Jed Tomkins, Assistant County Attorney

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

## Reference Table

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| Section 1.  | MCC 33.2625, 34.2625, 35.2625 and 36.2625 are amended as follows: .....             | 2  |
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| Section 4.  | MCC 35.3125 is amended as follows: .....  | 5  |
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| Section 6.  | MCC 35.2825 is amended as follows: .....  | 6  |
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| Section 9.  | MCC 35.3330 is amended follows:.....  | 7  |
| Section 10. | MCC 35.6750 and 35.6760 are added as follows:.....                                  | 7  |
| Section 11. | MCC 35.4515 is amended as follows:.....   | 8  |
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| Section 17. | MCC 36.4520 is amended as follows:.....   | 11 |
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| Section 19. | MCC 33.4567, 34.4567, 36.4567 are added as follows: .....                           | 12 |
| Section 20. | MCC 33.4570 and 34.4570 are amended as follows:.....                                | 12 |
| Section 21. | MCC 36.4560 is amended as follows:.....   | 14 |

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 2012-2394 and PC 2012-2395**

Recommend to the Board of Commissioners the adoption of an ordinance amending the Exclusive Farm Use zones to incorporate state statute and rule amendments for MCC Chapters 33 through 36 and update the farm stand provisions in MCC Chapter 35 to be consistent with the East of Sandy River Rural Area Plan policies.

**The Planning Commission Finds:**

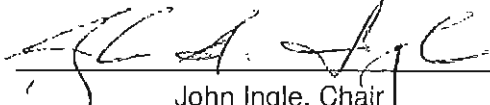
- a. The Planning Commission is authorized by Multnomah County Code Chapter 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan and land use regulations.
- b. The 2011 Oregon legislative session adopted amendments to the Exclusive Farm Use (EFU) laws. PC 2012-2394 proposes to amend the Exclusive Farm Use zone to implement House Bill 3290, Senate Bill 640 and House Bill 3408. The first amendment will alter the farm income standard for obtaining three types of farm dwellings on high and not-high value farmland. The second amendment will allow a lot size exception for Fire Service Facilities providing rural fire protection services. The final amendment adds irrigation reservoirs for irrigating off-site farmland as an Allowed Use.
- c. PC 2012-2395 seeks to implement Policy 16 and 17 from the East of Sandy River Rural Area Plan. A new farm stand use will be added to the Multiple Use Agriculture -20, Rural Residential and Springdale Rural Center zones to allow for a more intensive farm stand activity with sales of incidental items and fee-based activities along the Historic Columbia River Highway corridor. The new farm stand use is similar to the type of farm stand allowed in the Exclusive Farm Use zone.
- d. No regulations are being proposed that further restrict the use of property and no mailed notices to individual property owners are required ("Ballot Measure 56 notice"). Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages. The Planning Commission held a public hearing on December 3, 2012 where all interested person were given an opportunity to appear and be heard.

**The Planning Commission resolves:**

The proposed Ordinance amending MCC Chapter 33 through 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3<sup>rd</sup> day of December, 2012.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
John Ingle, Chair

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 2011-1796a**

Recommend to the Board of Commissioners the adoption of an ordinance amending the alternative energy provisions for MCC Chapter 35 to incorporate House Bill 3516 (2011).

**The Planning Commission Finds:**

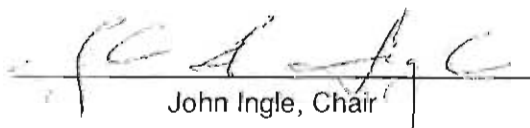
- a. The Planning Commission is authorized by Multnomah County Code Chapter 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan and land use regulations.
- b. The BCC adopted Ordinance 1192 to the accessory alternative energy system regulations and Significant Environmental Concern overlays for scenic resources in order to implement House Bill 3516 (2011) which requires roof top photovoltaic and solar thermal systems to be allowed outright except that system reflectivity in areas designated as significant scenic resources must be minimized. The Board of County Commissioners adopted these amendments in May 2012.
- c. The East of Sandy River Rural Area Plan implementing regulations in MCC 35 also contain protected scenic resources which should also be subject to the same provisions incorporated in the other chapters. The proposed amendment will provide an exception to obtaining a Significant Environmental Concern permit in the East of Sandy River zoning code provided the alternative energy system meets various design criteria and uses non-reflective or low-reflective materials.
- d. No regulations are being proposed that further restrict the use of property and no mailed notices to individual property owners are required ("Ballot Measure 56 notice"). Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages. The Planning Commission held a public hearing on November 5, 2012 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission resolves:**

The proposed Ordinance amending MCC Chapter 35 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5<sup>th</sup> day of November, 2012.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 2012-2248**

Recommend to the Board of Commissioners the adoption of an ordinance amending the significant environmental concern provisions for MCC Chapters 33, 34 and 36 to provide a non-discretionary permit for additions and new development.

**The Planning Commission Finds:**

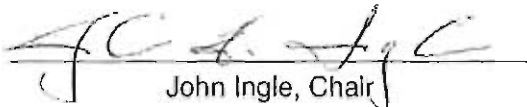
- a. The Planning Commission is authorized by Multnomah County Code Chapter 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan and land use regulations.
- b. The Significant Environmental Concern for wildlife habitat regulations was adopted initially in 1996 in the West Hills and Sauvie Island plan areas, and in 2002 in the West of Sandy River plan area. The code remains substantially the same today. The proposed amendments seek to improve clarity of the regulations, standardize exemptions, and improve the permit processing time for property owners while reducing costs to the County and its customers.
- c. The proposed amendments are intended to maintain existing protection measures for conflicting uses and provide optional mitigation measures for properties with unique physical characteristics that prevent compliance with the non-discretionary standards being developed.
- d. No regulations are being proposed that further restrict the use of property and no mailed notices to individual property owners are required ("Ballot Measure 56 notice"). Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages. The Planning Commission held a public hearing on December 3, 2012 where all interested person were given an opportunity to appear and be heard.

**The Planning Commission resolves:**

The proposed Ordinance amending MCC Chapter 33, 34 and 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3<sup>rd</sup> day of December, 2012.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair



OMAH COUNTY  
se Planning Division  
E 190th Ave.  
d, OR 97233



DEPT OF  
MAR 22 2013  
LAND CONSERVATION  
AND DEVELOPMENT

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ATTN: Plan Amend Specialist  
DLCD  
635 Capitol St NE, Ste 150  
Salem OR 97301-2540