



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 8/18/11)

APPROVED: MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R.1 DATE 1-10-13  
LYNDA GROW, BOARD CLERK  
*2ND READING: JAN. 17 2013*

### Board Clerk Use Only

Meeting Date: 1/10/13  
Agenda Item #: R.1  
Est. Start Time: 9:30 am  
Date Submitted: 12/27/12

**Agenda Title:** Public Hearing and First Reading of an Ordinance Amending MCC Chapters 11.15, 33-36, and 38 Relating to Home Occupation, and MCC Chapters 33-36 Relating to Design Review and Off-Street Parking Provisions.

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.*

**Requested Meeting Date:** January 10, 2013 **Time Needed:** 15 minutes  
**Department:** Community Services **Division:** Land Use Planning  
**Contact(s):** Chuck Beasley  
**Phone:** 503-988-3043 **Ext.** 22610 **I/O Address:** 455/116  
**Presenter Name(s) & Title(s):** Chuck Beasley, Senior Planner

## General Information

### 1. What action are you requesting from the Board?

Conduct a public hearing and approve the proposed zoning code amendments. These amendments have been recommended by the Planning Commission to the Board for approval.

### 2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

This proposed ordinance incorporates two sets of amendments recommended by the Planning Commission: PC 2011-1398a *Home Occupations*, and PC 2011-1399 *Design Review and Off-Street Parking*. The Planning Commission Resolutions recommending these zoning code amendments are attached.

#### Home Occupations

These amendments expand the scope of allowable activities for rural residents to establish a business on their home site. Farm uses and activities are not covered by this ordinance. The existing home occupation regulations that were adopted in 1998 provide two levels of business activity: a very limited "home office" and all others. The proposed amendments increase flexibility for homeowners to use their home site for small scale business purposes

by adding an additional permit. The new permit expands the areas that can be used for business to include both the home and an accessory structure, and allows signage. The approval procedure is an administrative land use process versus the more expensive conditional use process. The proposed amendments allow appropriately scaled incubator businesses, provisions for localized rural services, and more options for residents to work at home.

Key to expanded business use in residential areas is zoning code provisions that balance increased flexibility to conduct rural home based businesses with neighborhood livability. Proposed new standards will help ameliorate off-site impacts to adjacent properties by limiting the generation of noise, fumes, odors, dust, vibration and glare, by setting a maximum number of vehicle trips per day, and requiring proper storage and disposal of chemicals and materials generated by the business. Both the Type B and Type C home occupations are allowable in either a dwelling or in an accessory structure located anywhere on the property consistent with other zoning provisions; business activity must occur within structures. A new renewal procedure is proposed to create an incentive for the business operator to conduct the business in compliance with their permit rather than relying on the code enforcement process. The renewal process will allow neighbors that are being impacted by a use an opportunity to seek changes to address off-site impacts that may not have been apparent at the time of the original approval. The proposed ordinance also clarifies that home occupation permits are personal to the homeowner and do not establish a right transferrable by sale of the property.

The table below summarizes the major components of the three categories of home occupations proposed in all zones in the West Hills, Sauvie Island/Multnomah Channel, East of Sandy River and West of Sandy River Rural areas.

**SUMMARY OF KEY PROPOSED HOME OCCUPATION STANDARDS**

	<b>Type A</b>	<b>Type B</b>	<b>Type C</b>
<b>Review Process</b>	Registration	Planning Director (Type II)	Conditional Use (Type III)
<b>Structures</b>	Dwelling only	Dwelling and Accessory Building	Dwelling & Accessory Building
<b>Maximum Square Footage</b>	20% of Dwelling or 500 sq. ft	25% of all buildings used or 1,000 sq. ft.	35% of all buildings used or 1,500 sq. ft.
<b>Employees</b>	One	One	Five
<b>Customers</b>	Two at a time	Two at a time	No limit
<b>Signage</b>	Not allowed	Two Square Feet	Eight Square Feet
<b>Renewal Required</b>	No	Yes	Yes

- The existing Type A home occupation allows a small home office type activity within a dwelling. It currently allows either one employee or customer on the property at a time.

A proposed amendment expands the number of customers to two. Only registration of the business is required.

- The Type B home occupation is added to allow a use similar to the Type A and expands areas of the property that can be used in the business to include an accessory building anywhere on the property.
- The Type C is a renaming of the County's most intense home occupation use and allows the use of the dwelling and accessory building on the property and employment of up to five employees for the business enterprise.

In the Columbia River Gorge National Scenic Area (NSA), the amendments will add a Type A home occupation as a Review Use (Type II review) to provide a simpler process for a low intensity home business use. Currently all home occupation and cottage industries in the NSA require approval of a conditional use permit. The creation of a Type A home occupation use will allow an easier route for small business uses in the NSA while maintaining a public hearing process for home occupations and cottage industries that have greater potential of off-site impacts. In addition, the proposed criteria for the Type A home occupation will strive for consistency where feasible with Chapter 33 through 36's proposed Type A home occupation use.

#### Design Review and Off-Street Parking

The existing Design Review process evaluates site layout and parking and circulation for projects that require conditional and community service review, and for other specified uses. The proposed amendments to the Design Review ordinance streamline the approval process by removing the unnecessary preliminary plan review step. These changes will also clarify the required application materials. In addition, the proposed amendments distinguish between different sized projects and reduce requirements for small-scaled projects. Under the proposed amendments, projects that require fewer than four parking spaces will be reviewed against only four Design Review criteria. In addition, the altered Design Review standards reduce the landscaping requirements for the rural setting.

The amendments to the Off-Street Parking and Loading ordinance reduce the requirements for small scale development outside of rural center districts and pair with the new limited Design Review standards for projects with fewer than four parking spaces. Small-scale businesses may use gravel instead of pavement, and landscaping instead of curbing to separate the parking area from adjacent properties. In the Rural Centers, parcels that are less than the minimum lot size of 1 acre will be able to utilize a portion of the required 30 foot front yard setback for parking providing greater flexibility in design for these properties.

#### **3. Explain the fiscal impact (current year and ongoing).**

None

#### **4. Explain any legal and/or policy issues involved.**

Oregon Revised Statute (ORS) 215.448 together with related case law establishes limits to home occupations in farm and forest zones that are stricter than in rural residential exception zones. The Planning Commission recommended that the home occupation regulations should not be zone specific as much as possible but should establish across-the-board regulations for the Type A, B and C home occupations.

**5. Explain any citizen and/or other government participation that has or will take place.**

The Planning Commission originally considered the Home Occupation changes at work sessions in August 2011 and February 2012, followed with public hearings in March and April 2012. Twenty one individuals provided testimony on the amendments. Testimony received by the Planning Commission was a mix of support and questions regarding the proposed changes. Notice to individual property owners was mailed (Ballot Measure 56 notice) on February 14, 2012 describing the proposed amendments. Individuals who participated at any of the public hearings were mailed an additional notice advising them of the November 2012 reconsideration before the Planning Commission.

A public hearing was held before the Board of County Commissioners on July 12, 2012 where testimony was heard regarding the proposed home occupation amendments. The Board tabled the draft ordinance and directed staff to consider the proposed restrictions related to the location of accessory structures used for home occupation and limits on the amount of business activity that could occur off the property. The Planning Commission reconsidered the Home Occupation materials at a work session in September 2012 and held a third public hearing in November 2012 where changes were made to address off-site activities and use of accessory buildings. The Planning Commission recommended approval of the Home Occupation amendments to the Board of County Commission.

At the Planning Commission hearing in November 2012, public testimony was taken from an individual supporting the redrafted language and from an individual against the removal of the clustering provisions for buildings used as part of the home occupation.

Citizen participation for the Design Review and Off-Street Parking amendments included a work session in December 2011 and a public hearing in May 2012. There was no public testimony on the changes.

Staff also worked with Department of Land Conservation and Development and Columbia River Gorge Commission staff to ensure consistency of the proposed amendments with State and Management Plan regulations.

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**Required Signature**

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**Elected  
Official or  
Department  
Director:**

M. Cecilia Collier

**Date:**

12/27/12

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 2011-1398a**

Recommend to the Board of Commissioners the adoption of an ordinance amending MCC Chapters 33 through 36, and Chapters 38 and 11.15 related to home occupation requirements.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code subsections 37.0710 and 38.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend the County's Comprehensive Plan and land use regulations.
- b. Multnomah County adopted Ordinance No. 900 in 1998 providing for two levels of home occupation intensity, Type A and B. Decision makers anticipated a need to revisit the home occupation standards after the County implemented the ordinance for a period of time. Twelve years have passed since the original language was adopted and review is therefore timely.
- c. The home occupation regulations should be amended to support economic development within the rural areas by providing additional flexibility for rural businesses by allowing for "incubator" business ventures, providing for small-scale businesses that serve the rural area, and by including standards to govern the use by residents of their rural home sites for business. The proposed provisions should minimize off-site impacts so that neighbors will not be affected by the business activities.
- d. A home occupation is one where the business operator uses their home or accessory building for business activities. The predominant complaints received for disruptive business activities are for dispatch and storage, hosted events, and auto related uses. We find that these types of uses generate significant vehicle trips, loud noises, smells or other environmental impacts and disruption to the enjoyment of nearby property rights.
- e. The zoning code should provide three levels of home occupation activities to ensure that the scope of review is appropriate to the intensity of business operation proposed. Type A home occupations may only occur in an existing dwelling and require the business operator to register the business with Land Use Planning. Type B and C home occupations may occur in the dwelling and/or accessory building and require a land use review procedure to ensure the scope of the proposed business activity is consistent with ordinance standards.
- f. Authorization of Type B and Type C home occupations should be reviewed every three years to verify that the business operator is not adversely affecting the neighborhood or expanding the business beyond the activity approved for the home occupation. The renewal process provides an incentive to the business operator to operate in compliance with the approval rather than relying on the code enforcement

process. The zoning code should further clarify that home occupation approvals are personal to the business operator and will not run with the land or be transferrable on sale of the property.

- g. On July 12, 2012, the Board of County Commissioners considered the April 2, 2012 Planning Commission recommendations and remanded the proposal back to the Planning Commission. The Planning Commission held an additional work session and public hearing, and finds that the accessory building location need not be regulated when the business activity occurs within a building, and the county does not need to regulate off-site business activity.
- h. Regulations are being proposed that further restrict the use of property and notice to individual property owners was mailed ("Ballot Measure 56 notice") on February 14, 2012. 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 public hearings on March 5th, 2012, April 2, 2012, and November 5, 2012 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

The Planning Commission received new testimony and other information and has reconsidered this matter and recommends the revised language amending MCC Chapters 11.15, 33, 34, 35, 36 and 38 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of November, 2012.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 2011-1399**

Recommend to the Board of Commissioners the adoption of an ordinance amending MCC Chapters 33 through 36 related to Design Review and Off-Street Parking and Loading requirements.

**The Planning Commission Finds:**

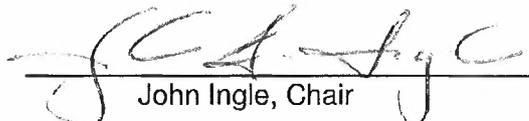
- a. The Planning Commission is authorized by Multnomah County Code Chapter 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend the County's Comprehensive Plan and land use regulations.
- b. The Design Review and Off-Street Parking and Loading requirements should be amended to improve the appropriateness of the review process and standards for rural development. Two levels of Design Review together with reduced improvement requirements will support economic development by providing flexibility for small-scaled businesses consistent with Framework Plan Policy 19, Community Design.
- c. West of Sandy River (WSR) Rural Area Plan policies direct that home occupations requiring land use approval be reviewed through the administrative review process in WSR rural communities and be subject to Design Review. The proposed amendments implement this Policy.
- d. Simplification of the Design Review submittal requirements will assist customers in preparing application materials. The streamlining of the Design Review process better aligns with Chapter 37 Administrative and Procedures provisions and should reduce processing timelines.
- e. 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 May 7, 2012 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

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

ADOPTED this 7th day of May, 2012.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair