

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1152**

Amending MCC Chapters 33, 35 and 11.15; the Multnomah County Comprehensive Framework Plan; and the Multnomah County Sectional Zoning Maps Relating to Significant Environmental Concern, Zoning Overlays in Response to the Requirements of Metro Title 13, Nature in Neighborhoods

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

- a. The Multnomah County Planning Commission, as authorized by Multnomah County Code Chapter subsection 37.0710 has recommended to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan Policies and land use regulations.
- b. The Planning Commission held public hearings on May 4, 2009, June 1, 2009 & August 3, 2009 where all interested persons were given an opportunity to appear and be heard.
- c. The changes result from Metro's adoption of the Nature in Neighborhoods (Metro Title 13) program in 2005 to establish a regional approach for fish and wildlife habitat protection and water quality enhancement.
- d. Multnomah County is legally bound to demonstrate compliance with Metro's Title 13 for those areas of the County within the Metro jurisdictional boundary.
- e. The Multnomah County nuisance plant list needs to be expanded to include species that have been identified by Metro as invasive species.
- f. Regulations are being proposed that further restrict the use of property and mailed notice to individual property owners was sent on April 13, 2009 ("Ballot Measure 56" notice). Notice of the hearings was published in the "Oregonian" newspaper and on the Land Use Planning web site on April 13, 2009, May 11, 2009, and July 13, 2009.

**Multnomah County Ordains as follows:**

**Section 1.      § 33.4515 is amended as follows:**

**33.4515 Exceptions**

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

(A1) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas;

~~(B2)~~ The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;

~~(C3)~~ Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);

~~(D4)~~ The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

~~(E5)~~ Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;

~~(F6)~~ The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;

~~(G7)~~ The maintenance and repair of existing flood control facilities;

~~(H8)~~ Uses legally existing on ~~November 17, 1994~~ January X, 2010; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure ~~that which~~: [-1]) for the SEC, SEC-w, and SEC-v overlays, do not require any modification to the exterior of the structure, and [2]) for the SEC-h and SEC-s overlays, require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein;

~~(I9)~~ All type A Home Occupations;

~~(J10)~~ Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure-;

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

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

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

~~(K)~~ (14) 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;

(15) 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.

(B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except



that agricultural fences shall not require an SEC-s permit.

**Section 2.      § 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:

<b>Zoning Designation</b>	<b>Approval Criteria (MCC#)</b>
SEC-w (wetlands)	33.4560
SEC-v (scenic views)	33.4565
SEC-h (wildlife habitat)	33.4570
SEC-s (streams)	33.4575

(B) The zoning maps used to designate the Stream Conservation Areas (SEC-s zoning subdistricts) were created digitally by interpreting various data sources including the hand drawn maps contained in the Goal 5 ESEE report and Metro's riparian and wildlife habitat inventories. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. ~~For those areas included in Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designated on the zoning maps as SEC-s is an area extending 300 feet from the nearest point on the centerline on both sides of the protected stream.~~ In the event of a mapping inconsistency, the SEC-s zoning subdistrict shall be interpreted to be the defined Stream Conservation Area.

(~~B~~C) An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

(~~C~~) ~~For Goal 5 resources designated "2A" or "3A", a proposed development must comply with the approval criteria in order to be approved.~~

(D) For ~~Goal 5~~protected stream resources ~~designated "3C"~~, the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property.

**Section 3.      § 33.4575 is amended as follows:**

**33.4575 Criteria for Approval of SEC-s Permit -Streams**

(A) Definitions:

(1) *Protected Streams* ~~— consist of~~ Those streams which have been found through a Goal 5 ESEE analysis ~~and protected by Ordinance 830 to be either "2 A", "3 A", or "3 C", are identified as~~

protected in the Comprehensive Framework Plan, and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Sectional Zoning Maps.

(2) *Development* – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative modifications.

(3) *Stream Conservation Area* – For the protected streams originally designated by Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designated on the zoning maps as SEC-s is an area which extends 300 feet from the centerline on both sides of the protected stream. An area extending 300 feet upslope from and perpendicular to the centerline of a protected stream. Within Metro's jurisdictional boundaries, the Stream Conservation Area protected by Ordinance XXX, adopted January XX, 2010, varies and shall be as depicted on the Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped overlay. ~~Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 33.4575 (B) through (E).~~

(4) *Nuisance or Invasive Non-Native Plants*: Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List.

(B) Except for the ~~following~~ exempt uses listed in MCC 33.4515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 33.4575 (C) through (E).

~~(1) Forest practices conducted under the Forest Practices Act~~

~~(2) Planting of native vegetation~~

~~(3) Agricultural uses~~

~~(4) Maintenance, but not expansion, of existing developments~~

~~(5) Right of way widening for existing rights of way when additional right of way is necessary to ensure continuous width~~

~~(6) Single utility poles necessary to provide service to the local area~~

\* \* \* \* \*

(D) For the protected stream resources, designated "3-C" the applicant shall demonstrate that the proposal:

(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a



Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

- (a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC 33.4575 (C);
- (b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
- (c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC 33.4575 (D) (1);
- (d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

\* \* \* \* \*

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to (C) through (E) above:

(1) The planting of any invasive non-native or noxious vegetation as listed in MCC 33.4570(B)(7) and MCC 33.4570(A)(4) is prohibited. A list of native plants can be found in the latest edition of the Metro Native Plant List.

(2) Outside storage of hazardous materials as determined by DEQ is prohibited, unless such storage began before the effective date of this ordinance; or, unless such storage is contained and approved during development review.

(FG) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.

**Section 4.      § 35.4515 is amended as follows:**

**35.4515 Exceptions**

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

- (A1) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas;
- (B2) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;
- (C3) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);

- (D4) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (E5) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- (F6) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;
- (G7) The maintenance and repair of existing flood control facilities;
- (H8) Uses legally existing on ~~November 17, 1994~~ January X, 2010; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure ~~which that~~ [1]) for the SEC, ~~SEC-w, and SEC-v~~ overlays, do not require any modification to the exterior of the structure, and [2]) for the ~~SEC-h and SEC-s~~ overlays, require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein.
- (I9) All type A Home Occupations;
- (J10) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure;
- (11) Alteration, repair, or replacement of septic system drainfields due to system failure;
- (12) Single utility poles necessary to provide service to the local area;
- (13) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width; and
- ~~(K)~~ (14) 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.
- (15) In addition to the exemptions listed in (A) above, within Metro's 2009 jurisdictional boundary an SEC permit shall not be required for the 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.
- (B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses; except that agricultural fences shall not require an SEC-s permit.

**Section 5.      § 35.4525 is amended as follows:**



### 35.4525 Applicable Approval Criteria

~~(A) The approval criteria in MCC 35.4555 shall apply to those areas designated SEC on the Multnomah County zoning maps.~~

~~(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)	<del>33.4560</del> 4555
SEC-v (scenic views)	33.4565
SEC-h (wildlife habitat)	33.4570
SEC-s (streams)	<del>33.4570</del> 4575

~~(B)~~ The zoning maps used to designate the Stream Conservation Areas (SEC-s zoning subdistricts) were created digitally by interpreting various data sources including the hand drawn maps contained in the Goal 5 ESEE report and Metro's riparian and wildlife habitat inventories. Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. In the event of a mapping inconsistency, the SEC-s zoning subdistrict shall be interpreted to be the Stream Conservation Area.

(C) An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

~~(D) For Goal 5 resources designated "2A" or "3A", a proposed development must comply with the approval criteria in order to be approved.~~

~~(E)~~ For Goal 5 resources designated "3C" protected stream resources, the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property.

**Section 6.** §§ 35.4560, 35.4565 and 35.4570 are deleted as follows:

#### **35.4560 Criteria for Approval of SEC-w Permit – Significant Wetlands**

~~Significant wetlands~~ consist of those areas designated as ~~Significant~~ on aerial photographs of a scale of 1-inch = 200 feet made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the following:

~~(A) In addition to other SEC Permit submittal requirements, the application shall also include:~~

(1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;

(2) A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

(3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;

(4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;

(5) Detailed Mitigation Plans as described in subsection (D), if required;

(6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

(B) The applicant shall demonstrate that the proposal:

(1) Is water dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

(2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

(3) Will not cause significant degradation of groundwater or surface water quality;

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;

(5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

(C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

(1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse



impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;

~~(2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and~~

~~(3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.~~

~~(4) This section is only applicable for wetland resources designated "3-C".~~

~~(D) A Mitigation Plan and monitoring program may be approved upon submission of the following:~~

~~(1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 35.4560 (A);~~

~~(2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;~~

~~(3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC 35.4560 (B) (2);~~

~~(4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:~~

~~(a) On the site of the impacted wetland, with the same kind of resource;~~

~~(b) Off site, with the same kind of resource;~~

~~(c) On site, with a different kind of resource;~~

~~(d) Off site, with a different kind of resource.~~

### **35.4565 Criteria for Approval of SEC-v Permit – Significant Scenic Views**

~~(A) Definitions:~~

~~(1) Significant scenic resources consist of those areas designated SEC-v on Multnomah County sectional zoning maps.~~

~~(2) Identified Viewing Areas are public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. Identified Viewing Areas are:~~

~~Bybee-Howell House  
Virginia Lakes~~

Sauvie Island Wildlife Refuge  
Kelley Point Park  
Smith and Bybee Lakes  
Highway 30  
The Multnomah Channel  
The Willamette River  
Public roads on Sauvie Island

~~(3) Visually subordinate means development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.~~

~~(B) In addition to the information required by MCC 35.4520, an application for development in an area designated SEC-v shall include:~~

~~(1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;~~

~~(2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;~~

~~(3) A list of identified viewing areas from which the proposed use would be visible; and,~~

~~(4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.~~

~~(C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:~~

~~(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.~~

~~(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.~~

~~(3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.~~

~~(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.~~



~~(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.~~

~~(6) Limiting structure height to remain below the surrounding forest canopy level.~~

~~(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:~~

~~(a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:~~

~~1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;~~

~~2. The facility is necessary for public service; and~~

~~3. The break in the skyline is the minimum necessary to provide the service.~~

~~(D) Mining of a protected aggregate and mineral resource within a PAM subdistrict shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The SEC Application for Significant Scenic Views must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.~~

~~(E) The approval authority may impose conditions of approval on an SEC v permit in accordance with MCC 35.4550, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.~~

### **35.4570 Criteria for Approval of SEC-h Permit Wildlife Habitat**

~~(A) In addition to the information required by MCC 35.4520 (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:~~

~~(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non forested "cleared" areas;~~

~~For the purposes of this section, a *forested area* is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an~~

area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A ~~non-forested "cleared"~~ area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

~~(2) Location of existing and proposed structures;~~

~~(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;~~

~~(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.~~

~~(B) Development standards:~~

~~(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.~~

~~(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.~~

~~(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.~~

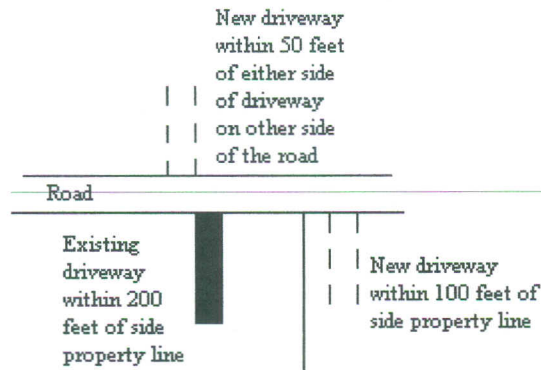
~~(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:~~

~~(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or~~

~~(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.~~

~~(c) Diagram showing the standards in (a) and (b) above.~~





For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.

2. The County Road Official shall provide written findings supporting the modification.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

(6) Fencing within a required setback from a public road shall meet the following criteria:

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

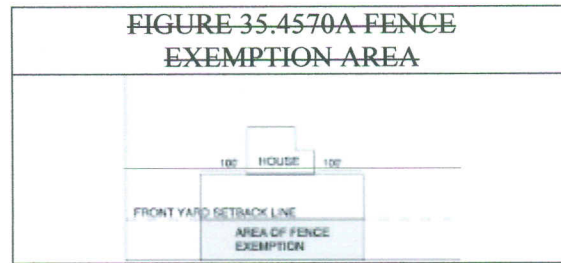
(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and

meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.



(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning glory
<i>Convolvulus-nyctagineus</i>	Night-blooming Morning glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Water weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium robertianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquifolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife



Scientific Name	Common Name
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coquimboides</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese-Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarraehoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinea major</i>	Periwinkle (large leaf)
<i>Vinea minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
various genera	Bamboo sp.

(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
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B);
- (3) The wildlife conservation plan must demonstrate the following:
  - (a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.
  - (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

~~(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.~~

~~(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.~~

~~(e) That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.~~

~~(4) 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 7.**      **§ 35.4575 is amended as follows:**

**35.4575 Criteria for Approval of SEC-s Permit -Streams**

**(A) Definitions:**

~~(1) *Protected Streams* - consist of those streams which have been found through a Goal 5 ESEE analysis and protected by Ordinance 830 to be either "2-A", "3-A", or "3-C", are identified as protected in the Comprehensive Framework Plan, and those streams and wetlands mapped by Metro's Title 13 as Habitat Conservation Areas as modified through the planning process are designated SEC-s on the Multnomah County Sectional Zoning Maps.~~

~~(2) *Development* – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative modifications.~~

~~(3) *Stream Conservation Area* – For the protected streams originally designated by Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designed on the zoning maps as SEC-s is an area which extends 300 feet from the centerline on both sides of the protected stream. An area extending 300 feet upslope from and perpendicular to the centerline of a protected stream. Within Metro's jurisdictional boundaries, the Stream Conservation Area protected by Ordinance XXX, adopted January XX, 2010, varies and shall be as depicted of the Multnomah County Zoning Maps and is from the centerline on both sides of the protected stream for the width of the mapped overlay. Any development proposed within a Stream Conservation Area shall be required to demonstrate that the development satisfies the standards of MCC 35.4575 (B) through (E).~~

~~(4) *Nuisance or Invasive Non-Native Plants*: Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List.~~



(B) Except for the ~~following exempt uses listed in MCC 35.4515~~, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 35.4575 (C) through ~~(E)~~(F).

~~(1) Forest practices conducted under the Forest Practices Act~~

~~(2) Planting of native vegetation~~

~~(3) Agricultural uses~~

~~(4) Maintenance, but not expansion, of existing developments~~

~~(5) Right of way widening for existing rights of way when additional right of way is necessary to ensure continuous width~~

~~(6) Single utility poles necessary to provide service to the local area~~

\* \* \* \* \*

(D) For the protected stream resources, designated "3-C" the applicant shall demonstrate that the proposal:

(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

(a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC 35.4575 (C);

(b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

(c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC 35.4575 (D) (1);

(d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

\* \* \* \* \*

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to (C) through (E) above:

(1) The planting of any invasive non-native or noxious vegetation as listed in MCC 35.4575(A)(4) is prohibited. In addition, the following nuisance plant species shall not be planted:

Scientific Name	Common Name
<u>Chelidonium majus</u>	<u>Lesser celandine</u>
<u>Cirsium arvense</u>	<u>Canada Thistle</u>
<u>Cirsium vulgare</u>	<u>Common Thistle</u>
<u>Clematis ligusticifolia</u>	<u>Western Clematis</u>
<u>Clematis vitalba</u>	<u>Traveler's Joy</u>
<u>Conium maculatum</u>	<u>Poison hemlock</u>
<u>Convolvulus arvensis</u>	<u>Field Morning-glory</u>
<u>Convolvulus nyctagineus</u>	<u>Night-blooming Morning-glory</u>
<u>Convolvulus seppium</u>	<u>Lady's nightcap</u>
<u>Cortaderia selloana</u>	<u>Pampas grass</u>
<u>Crataegus sp. except C. douglasii</u>	<u>hawthorn, except native species</u>
<u>Cytisus scoparius</u>	<u>Scotch broom</u>
<u>Daucus carota</u>	<u>Queen Ann's Lace</u>
<u>Elodea densa</u>	<u>South American Water-weed</u>
<u>Equisetum arvense</u>	<u>Common Horsetail</u>
<u>Equisetum telemateia</u>	<u>Giant Horsetail</u>
<u>Erodium cicutarium</u>	<u>Crane's Bill</u>
<u>Geranium roberianum</u>	<u>Robert Geranium</u>
<u>Hedera helix</u>	<u>English Ivy</u>
<u>Hypericum perforatum</u>	<u>St. John's Wort</u>
<u>Ilex aquafolium</u>	<u>English Holly</u>
<u>Laburnum watereri</u>	<u>Golden Chain Tree</u>
<u>Lemna minor</u>	<u>Duckweed, Water Lentil</u>

Scientific Name	Common Name
<u>Loentodon autumnalis</u>	<u>Fall Dandelion</u>
<u>Lythrum salicaria</u>	<u>Purple Loosestrife</u>
<u>Myriophyllum spicatum</u>	<u>Eurasian Watermilfoil</u>
<u>Phalaris arundinacea</u>	<u>Reed Canary grass</u>
<u>Poa annua</u>	<u>Annual Bluegrass</u>
<u>Polygonum coccineum</u>	<u>Swamp Smartweed</u>
<u>Polygonum convolvulus</u>	<u>Climbing Binaweed</u>
<u>Polygonum sachalinense</u>	<u>Giant Knotweed</u>
<u>Prunus laurocerasus</u>	<u>English, Portugese Laurel</u>
<u>Rhus diversiloba</u>	<u>Poison Oak</u>
<u>Rubus discolor</u>	<u>Himalayan Blackberry</u>
<u>Rubus laciniatus</u>	<u>Evergreen Blackberry</u>
<u>Senecio jacobaea</u>	<u>Tansy Ragwort</u>
<u>Solanum dulcamara</u>	<u>Blue Bindweed</u>
<u>Solanum nigrum</u>	<u>Garden Nightshade</u>
<u>Solanum sarrachoides</u>	<u>Hairy Nightshade</u>
<u>Taraxacum officinale</u>	<u>Common Dandelion</u>
<u>Urtica dioica</u>	<u>Stinging Nettle</u>
<u>Vinca major</u>	<u>Periwinkle (large leaf)</u>
<u>Vinca minor</u>	<u>Periwinkle (small leaf)</u>
<u>Xanthium spinosum</u>	<u>Spiny Cocklebur</u>
<u>various genera</u>	<u>Bamboo sp.</u>

(2) The revegetation of disturbed areas shall primarily use native plants. A list of native plants can be found in the latest edition of the Metro Native Plant List.

(3) Outside storage of hazardous materials as determined by DEQ is prohibited, unless such storage began before the effective date of this ordinance; or, unless such storage is contained and approved during development review.

(FG) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.



**Section 8.**      **§ 11.15.6400 is amended as follows:**

**11.15.6400 Purposes**

The purposes of the Significant Environmental Concern (SEC) subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

**Section 9.**      **§ 11.15.6401 is added as follows:**

**11.15.6401 Definitions.**

(A) Development: Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetative cover in the Water Resource Area or Habitat Area on a lot or parcel.

(B) Nuisance, invasive non-native and native plants: Nuisance and invasive non-native plants include the those plants listed in the latest edition of the Metro Nuisance Plant List and the Prohibited Plant List, and include those plants listed in the latest edition of the State of Oregon Noxious Weed List. Native plants are those listed in the latest edition of the Metro Native Plant List.

(C) Practicable, Practical: As in No Practicable Alternative. Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(D) Top of Bank: The same as "bankfull stage" which means the stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.

**Section 10.**      **§ 11.15.6406 is amended as follows:**

**11.15.6406 Exceptions**

An SEC permit shall not be required for the following:

~~(A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695(9) or on upland areas;~~

(A) Farming practices as defined in ORS 30.930 and agricultural use as defined in OAR 603-095-0010, except that buildings and other development associated with farm practices and agricultural uses are subject to the requirements of this district except that agricultural fences shall not require an SEC-wr permit;

~~(B) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;~~

(C) ~~\_\_\_\_\_~~ Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905(6);

(D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

(E) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;

(F) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;

(G) The maintenance and repair of existing flood control facilities;

(H) ~~\_\_\_\_\_ Uses legally existing on November 17, 1994; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure which 1) for the SEC, SEC-w, and SEC-v overlays do not require any modification to the exterior of the structure, and 2) for the SEC-h and SEC-s overlays require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein;~~

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

(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) 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;

(M) 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;

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

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

(P) Work necessary to protect, repair, maintain, or replace existing structures, utility facilities, service connections, roadways, driveways, accessory uses and exterior improvements in response to emergencies pursuant to the provisions of MCC .2282 Responses to and Emergency/Disaster Event, provided that after the emergency has passed, adverse impacts are mitigated.

**Section 11.**     **§ 11.15.6408 is amended as follows:**

**11.15.6408     Application for SEC Permit**

~~An application for an SEC permit for a use or for the change or alteration of an existing use on land~~



designated SEC, shall address the applicable criteria for approval, under MCC .6420 through .6428, and shall be filed as follows:

(A) — For a Permitted Use, an Accessory Use, or a Use Under Prescribed Conditions, in the manner provided in MCC .8210(B); and

(B) — For a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640, or for a Community Service Use as specified in MCC .7005 through .7030, or for a change of zone classification or for any other action as specified in MCC .8205, the SEC permit application shall be combined with the required application for the proposed action and filed in the manner provided in MCC .8210 and .8215.

(C) — An application for an SEC permit shall include the following:

(1) — A written description of the proposed development and how it complies with the applicable approval criteria of MCC .6420 through .6428.

(2) — A map of the property showing:

- (a) — Boundaries, dimensions, and size of the subject parcel;
- (b) — Location and size of existing and proposed structures;
- (c) — Contour lines and topographic features such as ravines or ridges;
- (d) — Proposed fill, grading, site contouring or other landform changes;
- (e) — Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;
- (f) — Location and width of existing and proposed roads, driveways, and service corridors.

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC .6420 through .6428. An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

(A) General SEC (SEC): All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the supplemental information that is listed for the resource area in which the development is proposed.

(1) A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SEC, SEC-wr, and SEC-h.

(2) A map of the property drawn to scale showing:

- (a) Boundaries, dimensions, and size of the subject parcel;
- (b) Location and size of existing and proposed structures;

- (c) Contour lines and topographic features such as ravines or ridges;
  - (d) Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SEC-wr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;
  - (e) Proposed fill, grading, site contouring or other landform changes;
  - (f) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas; and
  - (g) Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.
- (3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.
- (4) Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development.
- (C) SEC-Water Resource (SEC-wr): In addition to the information requirements listed in MCC .6408(A) above, the following information shall be submitted for applications within the SEC-wr overlay.
- (1) A topographic map of the development area and adjacent areas of the site at contour intervals of five feet or less showing a de-lination of the Water Area or Habitat Area as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, and utility installations;
  - (2) The location of wetlands;
  - (3) Preparation of plans and surveys - Inventories, assessment of existing conditions, and mitigation or restoration plans shall be prepared by a qualified professional such as a fish or wildlife biologist at the discretion of the Planning Director. Wetlands shall be identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual;
  - (4) The applicant shall provide evidence that when federal or state requirements apply, that the agency has been contacted, and shall provide an assessment of whether the project can meet the requirements based on the agency response;
  - (5) An assessment of the existing condition of the Water Resource Area in accordance with Table 2 Riparian/Vegetated Corridor Standards;
  - (6) An inventory of vegetation, including percentage ground and canopy coverage, and location of nuisance plants listed in Table 1;
  - (7) A detailed Mitigation Plan as described in MCC .6428(E), if required;
  - (8) The location of all existing trees of a caliper greater than six (6) inches in diameter at breast height (DBH); and
  - (9) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal,



including the amounts and methods.

**Section 12.**     **§ 11.15.6409 is amended as follows:**

**11.15.6409     Applicable Approval Criteria**

(A)     ~~The approval criteria in MCC .6420 shall apply to those areas designated SEC on the Multnomah County zoning maps.~~

(B)     The approval criteria that apply to uses in areas designated SEC ~~SEC-w~~, ~~SEC-v~~, ~~SEC-h~~ and ~~SEC-s wr~~ 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
<u>SEC</u>	<u>MCC .6420</u>
<del>SEC-w</del> (wetlands)	<del>MCC .6422</del>
<del>SEC-v</del> (scenic views)	<del>MCC .6424</del>
<del>SEC-h</del> (wildlife habitat)	<del>MCC .6426</del>
<del>SEC-s</del> (streams)	<del>MCC .6428</del>
<u>SEC-wr</u> (water resources)	

(B) The zoning maps used to designate the Stream Conservation Areas (SEC-s wr zoning subdistricts) were created digitally by interpreting various data sources, ~~including the hand drawn maps contained in the Goal 5 ESEE report.~~ Care was taken in the creation of the maps, but in some instances mapping inaccuracies have occurred during the process. ~~For those areas included in Ordinance 830 (West Hills Rural Area Plan), the Stream Conservation Area designated on the zoning maps as SEC-s is an area which extends extending 300 feet from the nearest point on the centerline on both sides of the protected stream.~~ In the event of a mapping inconsistency, the SEC-swr zoning subdistrict shall be interpreted to be the defined Stream Conservation Area.

(C)     An application for a use on a property containing more than one protected resource shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

(D) ~~For Goal 5 resources designated "2A" or "3A", a proposed development must comply with the approval criteria in order to be approved.~~

(ED)   For ~~Goal 5 resources designated "3C"~~ protected stream resources, the approval criteria shall be used to determine the most appropriate location, size and scope of the proposed development, in order to make the development compatible with the purposes of this section, but shall not be used to prohibit a use or be used to require removal or relocation of existing physical improvements to the property.

**Section 13.**     **§ 11.15.6410 is amended as follows:**

#### **11.15.6410 SEC Permit – Required Findings**

A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC .64206 through .6428.

#### **Section 14. §§ 11.15.6412, 11.15.6414, and 11.15.6416 are deleted as follows:**

##### **~~11.15.6412 Decision by Planning Director~~**

- ~~(A) A decision on an SEC permit application for a Permitted Use or a Use Under Prescribed Conditions shall be made by the Planning Director.~~
- ~~(B) The Director may approve the proposal or approve it with such modifications and conditions as may be consistent with the Comprehensive Plan and necessary to assure compatibility with applicable criteria of MCC .6420 through .6428.~~
- ~~(C) Within thirty business days following receipt of a completed application for an SEC permit, the Planning Director shall file the decision with the Director of Environmental Services and shall mail a copy of the decision to the applicant and to other persons who request the same.~~
- ~~(D) A decision by the Planning Director on an SEC permit application shall include written conditions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically address the relationships between the proposal and the applicable criteria in MCC .6420 through .6428.~~

##### **~~11.15.6414 Decision by a Hearings Officer~~**

- ~~(A) A decision on an SEC permit application for a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640, or for a Community Service use as specified in MCC .7005 through .7030, shall be made by the Hearings Officer in conjunction with the decision on the use proposal associated therewith.~~
- ~~(B) Action by the Hearings Officer on an SEC permit application shall be taken pursuant to MCC .8205 through .8250.~~
- ~~(C) The findings and conclusions made by the Hearings Officer and the conditions or modifications of approval, if any, shall specifically address the relationships between the proposal and the applicable criteria in MCC .6420 through .6428.~~

##### **~~11.15.6416 Appeals~~**

- ~~(A) A decision by the Planning Director on an application for an SEC permit may be appealed to the Hearings Officer in the manner provided in MCC .8290 and .8295.~~
- ~~(B) A decision by the Hearings Officer on an application for an SEC permit may be appealed to the Board of County Commissioners in the manner provided in MCC .8255.~~

#### **Section 15. § 11.15.6413 is added as follows:**

##### **11.15.6413 Existing Uses.**



Uses that legally existed on January XX, 2010, that are not included as Exceptions in section MCC .6406, 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 MCC .6400 through .6428, except for changes to a structure as described in Sections (1) or (2) below;

(1) In areas subject to the provisions of the SEC, 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.

(B) Replacement or restoration of existing structures that were unintentionally destroyed by fire or other casualty, or natural disaster within the same foundation lines shall not require an SEC permit. The redevelopment must be commenced within one year from the date of the loss, and may include addition of a maximum 400 square feet of ground coverage. Structures which are expanded up to 400 square feet under this provision, may not subsequently expand under the provision in (A)(2) above.

(C) Within the SEC-wr, lawfully established structures that do not meet the casualty loss provisions of (B) above may be replaced within the same foundation lines or area of ground coverage when the entire remaining vegetated corridor on the project site, or the first 50 feet closest to the stream, or an area equal to the ground coverage of the building and attached structures and paved areas, whichever is less, is enhanced to "good" condition pursuant to Table 2. Replacement shall be processed as a Type II review.

(D) If development under this section is proposed to be located closer to a protected water feature, approval of a permit under the provisions of MCC .6408, .6422 & .6428 shall be obtained.

**Section 16.**     **§§ 11.15.6422 and 11.15.6424 are deleted as follows:**

**11.15.6422 — Criteria for Approval of SEC w Permit — Significant Wetlands**

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the following:

(A) — In addition to other SEC Permit submittal requirements, the application shall also include:

(1) — A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval of no greater than five feet;



- (2) ~~— A description and map of the wetland area that will be affected by the proposed activity. This documentation must also include a map of the entire wetland, an assessment of the wetland's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;~~
- (3) ~~— A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;~~
- (4) ~~— A study of any flood hazard, erosion hazard, or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards;~~
- (5) ~~— Detailed Mitigation Plans as described in subsection (D), if required;~~
- (6) ~~— Description of how the proposal meets the approval criteria listed in subsection (B) below.~~
- (B) ~~— The applicant shall demonstrate that the proposal: [Amended 1994, Ord. 801 § 3]~~
  - (1) ~~— Is water dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;~~
  - (2) ~~— Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;~~
  - (3) ~~— Will not cause significant degradation of groundwater or surface water quality;~~
  - (4) ~~— Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;~~
  - (5) ~~— Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).~~
- (C) ~~— A finding of no practicable alternative is to be made only after demonstration by the applicant that:~~
  - (1) ~~— The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;~~
  - (2) ~~— The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and~~
  - (3) ~~— In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.~~



~~(4) — This section is only applicable for wetland resources designated "3-C".~~

~~(D) — A Mitigation Plan and monitoring program may be approved upon submission of the following:~~

~~(1) — A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC .6372 and .6376 (A);~~

~~(2) — A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;~~

~~(3) — A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376 (B)(2);~~

~~(4) — Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:~~

~~(a) — On the site of the impacted wetland, with the same kind of resource;~~

~~(b) — Off site, with the same kind of resource;~~

~~(c) — On site, with a different kind of resource;~~

~~(d) — Off site, with a different kind of resource.~~

#### **~~11.15.6424 — Criteria for Approval of SEC v Permit Significant Scenic Views~~**

~~Significant scenic resources~~ consist of those areas designated SEC v on Multnomah County sectional zoning maps.

~~Identified Viewing Areas~~ are public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. ~~Identified Viewing Areas are:~~

~~Bybee-Howell House~~

~~Virginia Lakes~~

~~Sauvie Island Wildlife Refuge~~

~~Kelley Point Park~~

~~Smith and Bybee Lakes~~

~~Highway 30~~

~~The Multnomah Channel~~

~~The Willamette River~~

~~Public roads on Sauvie Island~~

~~Visually subordinate~~ means development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

~~(A) — In addition to the information required by MCC .6408(C), an application for development in an area designated SEC v shall include:~~

~~(1) — Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;~~

- (2) — Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;
  - (3) — A list of identified viewing areas from which the proposed use would be visible; and
  - (4) — A written description and drawings demonstrating how the proposed development will be visually subordinate as required by (B) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.
- (B) — Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:
- (1) — Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.
  - (2) — Use of nonreflective or low reflective building materials and dark natural or earthtone colors.
  - (3) — No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.
  - (4) — Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.
  - (5) — Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.
  - (6) — Limiting structure height to remain below the surrounding forest canopy level.
  - (7) — Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:
    - (a) — New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:
      - (i) — The new facility could not be located in an existing transmission corridor or built upon an existing facility;
      - (ii) — The facility is necessary for public service; and
      - (iii) — The break in the skyline is the minimum necessary to provide the service.
- (C) — Mining of a protected aggregate and mineral resource within a PAM subdistrict shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The SEC Application for Significant Scenic Views must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.
- (D) — The approval authority may impose conditions of approval on an SEC v permit in accordance with MCC .6418, in order to make the development visually subordinate. The extent and type of



conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.

**Section 17.**     § 11.15.6423 is added as follows:

**11.15.6423 General Requirements for Approval in Areas Designated as SEC-wr.**

The requirements in this section shall be satisfied for development in the SEC-h and SEC-wr areas in addition to the provisions of MCC .6426 or MCC .6428 as applicable.

(A) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

(B) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water re-source or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.

(C) The following nuisance plants, in addition to the nuisance plants defined in MCC .6401, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:

Table 1

Nuisance Plant List

<b>Common Name</b>	<b>Scientific</b>		<b>Common Name</b>	<b>Scientific</b>
Lesser celandine	Chelidonium majus		Fall Dandelion	Loentodon autumnalis
Canada Thistle	Cirsium arvense		Purple Loosestrife	Lythrum salicaria
Common Thistle	Cirsium vulgare		Eurasian Watermilfoil	Myriophyllum spicatum
Western Clematis	Clematis ligusticifolia		Reed Canary grass	Phalaris arundinacea
Traveler' s Joy	Clematis vitalba		Annual Bluegrass	Poa annua
Poison hemlock	Conium maculatum		Swamp Smartweed	Polygonum coccineum
Field Morning-glory	Convolvulus arvensis		Climbing Binaweed	Polygonum convolvulus
Night-blooming Morningglory	Convolvulus nyctagineus		Giant Knotweed	Polygonum sachalinense

Common Name	Scientific	Common Name	Scientific
Lady' s nightcap	Convolvulus seppium	English, Portuguese/ Laurel	Prunus laurocerasus
Pampas grass	Cortaderia selloana	Poison Oak	Rhus diversiloba
Hawthorn, except native species	Crataegus sp. except C. douglasii	Himalayan Blackberry	Rubus discolor
Scotch broom	Cytisus scoparius	Evergreen Blackberry	Rubus laciniatus
Queen Ann' s Lace	Daucus carota	Tansy Ragwort	Senecio jacobaea
South American Waterweed	Elodea densa	Blue Bindweed	Solanum dulcamara
Common Horsetail	Equisetum arvense	Garden Nightshade	Solanum nigrum
Giant Horsetail	Equisetum telemateia	Hairy Nightshade	Solanum sarrachoides
Crane' s Bill	Erodium cicutarium	Common Dandelion	Taraxacum officinale
Robert Geranium	Geranium roberianum	Common Bladderwort	Utricularia vulgaris
English Ivy	Hedera helix	Stinging Nettle	Urtica dioica
St. John' s Wort	Hypericum perforatum	Periwinkle (large leaf)	Vinca major
English Holly	Ilex aquafolium	Periwinkle (small leaf)	Vinca minor
Duckweed, Water Lentil	Lemna minor	Spiny Cocklebur	Xanthium spinosum
Fall Dandelion	Loentodon autumnalis	Bamboo sp.	various genera
Purple Loosestrife	Lythrum salicaria		

**Section 18. § 11.15.6426 is amended-deleted as follows:**

**~~11.15.6426~~ — Criteria for Approval of SEC h Permit Wildlife Habitat**

~~(A) — In addition to the information required by MCC .6408(C), 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:~~

~~(1) — Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;~~

~~For the purposes of this section, a forested area is defined as an area that has at least 75% crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A~~



non-forested “cleared” area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

(2) — Location of existing and proposed structures;

(3) — Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) — Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

(B) — Development standards:

(1) — Where a parcel contains any non-forested “cleared” areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

(2) — Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

(3) — The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(4) — The access road/driveway shall be located within 100 feet of the property boundary if adjacent property has an access road or driveway within 200 feet of the property boundary.

(5) — The development shall be within 300 feet of the property boundary if adjacent property has structures and developed areas within 200 feet of the property boundary.

(6) — Fencing within a required setback from a public road shall meet the following criteria:

(a) — Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

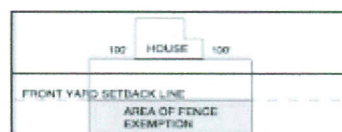
(b) — Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

(c) — Cyclone, woven wire, and chain link fences are prohibited.

(d) — Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) — Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

FIGURE .6400A-1



FENCE EXEMPTION AREA

(7) — The following nuisance plants shall not be planted on the subject property and shall be

removed and kept removed from cleared areas of the subject property:

(CB) ~~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~~

(2) ~~The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section B and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section B.~~

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

(a) ~~That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.~~

(b) ~~That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.~~

(c) ~~That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.~~

(d) ~~That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.~~

(e) ~~That revegetation and enhancement of disturbed stream riparian areas occurs along drainages and streams located on the property.~~

(4) ~~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 19.**     § 11.15.6428 is deleted as follows:

### **11.15.6428** — **Criteria for Approval of SEC-s Permit Streams**

~~Protected Streams consist of those streams which have been found through a Goal 5 ESEE analysis to be either “2 A”, “3 A”, or “3 C”, are identified as protected in the Comprehensive Framework Plan, and are designated SEC-s on the Multnomah County Sectional Zoning Maps.~~

~~Development—Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative modifications.~~

~~Stream Conservation Area—An area extending 300’ upslope from and perpendicular to the centerline of a protected stream. Any development proposed within a Stream Conservation Area shall be required to~~



demonstrate that the development satisfies the standards of MCC 11.15.6428(A) through (D).

(A) — Except for the following exempt uses, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 11.15.6428(B) through (D):

- (1) — Forest practices conducted under the Forest Practices Act
- (2) — Planting of native vegetation
- (3) — Agricultural uses [Amended 1995, Ord. 832 § 2]
- (4) — Maintenance, but not expansion, of existing developments
- (5) — Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width
- (6) — Single utility poles necessary to provide service to the local area

(B) — In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

- (1) — A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;
- (2) — A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;
- (3) — A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;
- (4) — A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by (D)(5) below;
- (5) — A detailed Mitigation Plan as described in subsection (C), if required; and
- (6) — A description of how the proposal meets the approval criteria listed in subsection (C) below.

(C) — For stream resources designated "3-C" the applicant shall demonstrate that the proposal:

- (1) — Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:
  - (a) — A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC .6428(B);
  - (b) — A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;
  - (c) — A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC .6428(C)(1);

~~(d) — An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.~~

~~(D) — Design Specifications~~

~~The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:~~

~~(1) — A bridge or arched culvert which does not disturb the bed or banks of the stream and which maintains the existing flood carrying capacity for the altered portion of the stream shall be utilized for any crossing of a protected stream. [Amended 1999, Ord. 931 § IV]~~

~~(2) — All storm water generated by a development shall be collected and disposed of on site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.~~

~~(3) — Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area~~

~~(4) — Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.~~

~~(5) — Satisfaction of the erosion control standards of MCC .6730.~~

~~(6) — Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.~~

~~(7) — Demonstration of compliance with all applicable state and federal permit requirements.~~

~~(E) — For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the Mitigation Plan must comply only with measures identified in the Goal 5 protection program that has been designated for the site.~~

**Section 20.**     § 11.15.6429 is added as follows:

**11.15.6429     CRITERIA FOR APPROVAL OF SEC-WR PERMIT -WATER RESOURCE**

Except for the exempt uses listed in MCC .6406 and the existing uses pursuant to MCC .6412, no development shall be allowed within a Water Resource Area unless the provisions of section (A) or (B) or (C) below are satisfied. An application shall not be approved unless it contains the site analysis information required in MCC .6408(A) and (C), and meets the general requirements in MCC .6422.

(A) Development on Low Impact Sites - Development on parcels in locations that would have low impacts on Water Resource Areas may be exempt from the Alternatives Analysis in (B) below. Development on sites that meet the following criterion may be allowed pursuant to the other applicable requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E):

(1) The development site is at least one hundred (100) feet from top of bank or top of ravine, which ever results in a greater distance from the Protected Water Feature.

Top of ravine is the break in the > 25% slope. Slope should be measured in 25-foot increments



away from the water feature until the slope is less than 25% (top of ravine), up to a maximum distance of 200' from the water feature. Where multiple resources are present (e.g., stream with wetlands along banks), the starting point for measurement should be whichever offers greatest re-source protection.

(B) Alternatives Analysis - Development pro-posed within a Water Resource Area may be al-lowed if there is no alternative, when the other requirements of this district including the Development Standards of (D) and the provisions for Mitigation in (E) are met. The applicant shall prepare an alternative analysis which demonstrates that:

- (1) No practicable alternatives to the re-requested development exist that will not disturb the Water Resource Area; and
- (2) Development in the Water Resource Area has been limited to the area necessary to allow for the proposed use;
- (3) Development shall occur as far as practically possible from the stream; and
- (4) The Water Resource Area can be re-stored to an equal or better condition; or
- (5) Any net loss on the property of resource area, function and/or value can be mitigated.

(C) Buffer Averaging - Development may be al-lowed to encroach into the 200' SEC-wr over-lay zone or "buffer" when the provisions of (1) through (6) below are satisfied. These provisions are intended to allow development to extend a specific amount into the edges of the overlay zone without an alternatives analysis in exchange for increasing the area of vegetated corridor on the property that is in good condition.

- (1) Site assessment information pursuant to MCC .6408(A) and (C) has been submitted.
- (2) The riparian/vegetated corridor is certified to be in a marginal or degraded condition pursuant to Table 2. Buffer averaging is not allowed to encroach in areas certified to be in good condition.
- (3) The maximum encroachment does not exceed 20% of the frontage length of the vegetated corridor by 20% of the required width.
- (4) The entire remaining vegetated corridor on the project site or the first 50 feet closest to the stream (whichever is less) will be enhanced to "good" condition pursuant to Table 2.
- (5) The area of encroachment will be re-placed with added buffer area at a 1:1 ratio.
- (6) The replacement area will be incorporated into the remaining vegetated corridor on the project site and meet the "good" condition pursuant to Table 2, regardless of its distance from the resource area.

(D) Development Standards- Development within the Water Resource Area shall comply with the following standards:

- (1) Development of trails, rest points, viewpoints, and other facilities for the enjoyment of the resource must be done in such a manner so as to minimize impacts on the natural resource while allowing for the enjoyment of the natural resource.
- (2) Development in areas of dense standing trees shall be designed to minimize the numbers of trees to be cut. No more than 50 percent of mature standing trees (of 6-inch DBH greater ) shall be removed with-out a one-for-one replacement with comparable species. The site plan for the

pro-posed activity shall identify all mature standing trees by type, size, and location, which are proposed for removal, and the location and type of replacement trees.

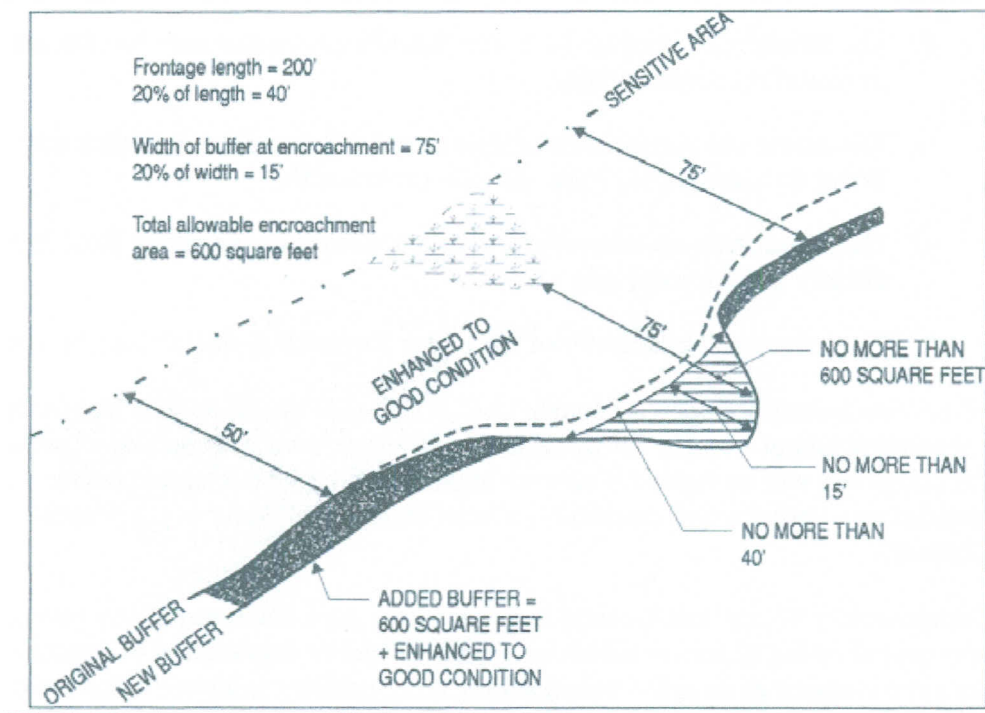
(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous, particularly along natural drain-age courses, so as to provide a transition between the proposed development and the natural resource, to provide food, water, and cover for wildlife, and to protect the visual amenity values of the natural resource.

(4) The Water Resource Area shall be re-stored to "good condition" and maintained in accordance with the mitigation plan pursuant to (E) below and the specifications in Table 2.

(5) To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Resource Area. Trees in the Water Resource Area shall not be used as anchors for stabilizing construction equipment.

(6) Where existing vegetation has been re-moved, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in Table 1, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

Figure 2



(7) Prior to construction, the Water Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as otherwise allowed by this district. Such markings shall be maintained until construction is complete.

(8) Stormwater quantity control and quality control facilities:



(a) Stormwater management shall be conducted in a manner that does not increase the flow of stormwater to the stream above pre-development levels.

(b) The stormwater quantity control and quality control facility may only encroach a maximum of 25 feet into the outside boundary of the Water Resource Area of a primary water feature; and

(c) The area of encroachment must be replaced by adding an area equal in size and with similar functions and values to the Water Resource Area on the subject property.

(E) Mitigation - Mitigation shall be required to offset the impacts of development within the SE-Cwr. This section establishes how mitigation can occur.

(1) Mitigation Sequence. Mitigation includes avoiding, minimizing or compensating for adverse impacts to regulated natural resource areas.

(a) When a proposed use or development activity could cause adverse impacts to a natural resource area, the preferred sequence of mitigation as defined in 1. through 5. below shall be followed unless the applicant demonstrates that an overriding public benefit would warrant an exception to this preferred sequence.

1. Avoiding the impact altogether by not taking a certain action or parts of actions on that portion of the site which contains the regulated natural resource area;

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

3. Compensating for the impact by repairing, rehabilitating, or restoring the affected environment;

4. Compensating for the impact by replacing, enhancing or providing substitute resources or environments on-site.

5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments off-site.

(b) When evaluating potential impacts to the natural resource, the County may consider whether there is an overriding public benefit, given:

1. The extent of the public need for the proposed development;

2. The functional values of the Water Resource Area that may be affected by the proposed development;

3. The extent and permanence of the adverse effects of the development on the Water Resource Area, either directly or indirectly;

4. The cumulative adverse effects of past activities on the Water Resource Area, either directly or indirectly; and

5. The uniqueness or scarcity of the Water Resource Area that may be affected.

(2) Compensatory Mitigation: General Requirements. As a condition of any permit or other approval allowing development which results in the loss or degradation of regulated natural resource areas, or as an enforcement action, compensatory mitigation shall be required to offset impacts resulting from the actions of the applicant or violator.

(a) Any person who alters or proposes to alter regulated natural resource areas shall restore or create natural resource areas equivalent to or larger than those altered in order to compensate for re-source losses.

(b) The following ratios apply to the creation or restoration of natural re-source areas. The first number specifies the amount of natural resource area to be created and the second specifies the amount of natural resource area to be altered or lost.

Creation (off-site) 2:1

Restoration (off-site) 1.5:1

Creation (on-site) 1.5:1

(Restoration (on-site) 1:1

(c) Only marginal or degraded water re-source areas as described in Table 2 may be the subject of a restoration project proposed as part of a Mitigation Plan.

(d) Highest priority sites for mitigation are marginal or degraded corridors that are closest to a natural drainage, and areas which will increase contiguous areas of standing trees, shrubs, and natural vegetation along drainages.

(e) The off-site mitigation shall be as close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable, within the watershed where the development will take place or as otherwise specified by the County.

(f) Compensation shall be completed prior to initiation of development where possible.

(g) In order to ensure that on-site mitigation areas are established and maintained, the property owner shall record the mitigation plan approval in the deed records of Multnomah County. In order to ensure that off-site mitigation areas will be protected in perpetuity, the owner shall cause a deed restriction to be placed on the property where the mitigation is required. The deed restriction shall be irrevocable unless a statement of release is signed by an authorized representative of Multnomah County.

(3) Mitigation Plan Standards - Natural re-source mitigation plans shall contain the following information:

(a) A description of adverse impacts that could be caused as a result of development.

(b) An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated.

(c) A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site.

(d) A map drawn to scale, showing where the specific mitigation activities will occur.

(e) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in fish-bearing streams must be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

Table 2

Riparian/Vegetated Corridor Standards



<u>Existing Riparian/Vegetated Corridor Condition</u>	<u>Requirements of Riparian/Vegetated Corridor Protection, Enhancement, and/or Mitigation</u>
<p><u>Good Corridor</u></p> <p><u>Combination of native trees, shrubs, and groundcover covering greater than 80% of the area</u></p> <p><u>and</u></p> <p><u>Greater than 50% tree canopy exists (aerial measure)</u></p>	<p><u>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</u></p> <p><u>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand.</u></p> <p><u>Provide the County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore condition and mitigate any habitat or water quality impacts related to development.</u></p> <p><u>Revegetate impacted area per approved plan to reestablish “good” corridor conditions</u></p>
<p><u>Marginal Corridor</u></p> <p><u>Combination of native trees, shrubs, and groundcovers covering 50% - 80% of the area</u></p> <p><u>and/or</u></p> <p><u>26-50% tree canopy exists (aerial measure)</u></p> <p><u>(Restoration up to “good” corridor required)</u></p>	<p><u>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</u></p> <p><u>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically with small equipment, as appropriate to minimize damage to existing native vegetation.</u></p> <p><u>Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.</u></p> <p><u>Vegetate corridor to establish “good” corridor conditions</u></p>

<p><u>Degraded Corridor</u></p> <p><u>Combination of native trees, shrubs, and groundcovers covering is less than 50% of the area</u></p> <p><u>and/or</u></p> <p><u>Less than 25% tree canopy exists (aerial measure)</u></p> <p><u>and/or</u></p> <p><u>Greater than 10% of the area is covered by invasive, non-native species</u></p> <p><u>(Restoration up to “good” corridor required)</u></p>	<p><u>Provide certification, pursuant to the procedures provided by the Planning Director, by a professional ecologist/biologist that the riparian/vegetated corridor meets condition criteria.</u></p> <p><u>Remove any invasive non-native or nuisance species and debris and noxious materials within the corridor by hand or mechanically as appropriate.</u></p> <p><u>Provide County with a native plant revegetation plan appropriate to the site conditions developed by an ecologist/biologist or landscape architect to restore to a good corridor condition.</u></p> <p><u>Vegetate corridor to establish “good” corridor conditions</u></p>
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**Section 21.** Comprehensive Framework Plan Policy 16-D: Fish and Wildlife Habitat is amended to read as follows:

## POLICY **16-D**: FISH AND WILDLIFE HABITAT

It is the County’s policy to protect significant fish and wildlife habitat and to specifically limit conflicting uses within natural ecosystems within the rural portions of the County and sensitive big game winter habitat areas.

### STRATEGIES

- A. Utilize information provided by the Oregon Department of Fish and Wildlife to identify significant habitat areas and to delineate sensitive big game winter habitat areas. If necessary, supplement this information with additional professional analysis to identify additional significant habitat areas and natural ecosystems within rural portions of the County.

1. In 2001, the Metropolitan Service District (Metro) inventoried the riparian and wildlife habitat within its jurisdiction for riparian and wildlife habitat quality. Within Metro’s boundaries, the County may rely upon Metro’s riparian and wildlife habitat inventories and mapping to identify and protect fish and wildlife habitat.

- B. Apply the SEC overlay zone to all significant habitat areas not already zoned Willamette River Greenway.
- C. Include provisions within the Zoning Ordinance to review development proposals which may affect natural ecosystems within the rural portions of the County and sensitive big game winter habitat areas.



**Section 22.** The following Sectional Zoning Maps are amended to apply the Significant Environmental Concern for Streams (SEC-s) overlay zone as shown on Exhibits A and B: 30, 39, 40, 49, 50, 51, 60, 61, 62, 72, 73, 77, 83, 85, 86, 87, 88, 651, 652, 655, 656, 667, 668, 671, 672, 674, and 683.

**Section 23.** The following Sectional Zoning Maps are amended to apply the Significant Environmental Concern for Water Resources (SEC-wr) overlay zone as shown on Exhibit C: 529, 534, 535, 540, 541, and 542.

FIRST READING:

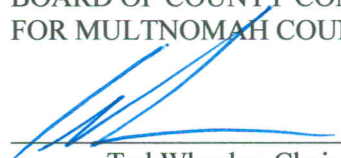
December 17, 2009

SECOND READING AND ADOPTION:

January 7, 2010



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

West Hills  
New Significant Environmental Concern  
for Streams (SEC-S) Overlays

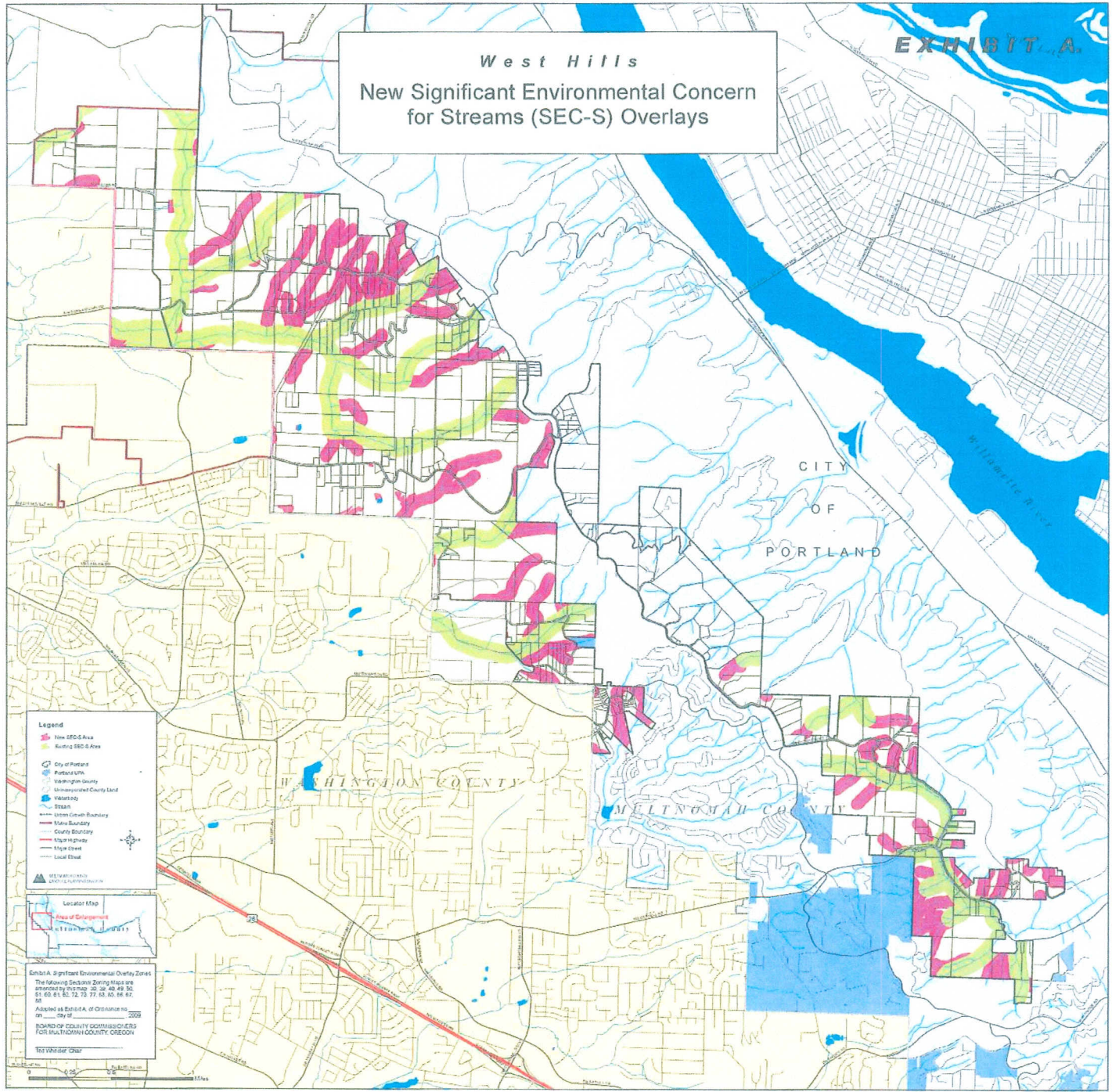




EXHIBIT B.

**Legend**

- Shoshone National Recreation Area
- New Big Bend State Park
- Quincy National Monument
- Unincorporated County Land
- Columbia River Gorge NHP
- County Boundary
- State Boundary
- International Boundary
- Major Road
- Local Road
- Stream

ARC/INFO COUNTY AND STATE BOUNDARIES

**Locator Map**

Area of Emphasis

Malheur County

Exhibit B: Significant Environmental Overlay Zones

The following Sectional Zoning Map is identified by map sheet: 057, 058, 059, 067, 068, 071, 072, 074, and 075.

Adopted as Exhibit A of Ordinance no. \_\_\_\_\_ 2009

BOARD OF COUNTY COMMISSIONERS  
FOR MULTICOUNTY COOPERATION

162 Urbanist Chair

*Pleasant Valley*

# New Significant Environmental Concern for Water Resources (SEC-WR) Overlays

**EXHIBIT C.**

