



## MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 8/18/11)

### Board Clerk Use Only

**Meeting Date:** 5/17/12  
**Agenda Item #:** R.1  
**Est. Start Time:** 11:00 am  
**Date Submitted:** 4/25/12

**Agenda  
Title:**

Public Hearing and Second Reading of an Ordinance Amending MCC Chapters 11.05, 33-36, and 38 Relating to Planning Commission; MCC Chapters 33-36 and 38 Relating to Alternative Energy Systems, Solar Energy Generation, and Commercial Photovoltaic Energy Facilities in EFU Zones; and MCC Chapter 36 Relating to Rural Fire Stations in Various Zone Districts.

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

**Requested Meeting Date:** May 10, 2012 **Time Needed:** 15 minutes  
**Department:** Community Services **Division:** Land Use Planning  
**Contact(s):** Chuck Beasley  
**Phone:** 503-988-5050 **Ext.** 22610 **I/O Address:** 455/116  
**Presenter Name(s) & Title(s):** Chuck Beasley, Senior Planner

### General Information

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

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

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

This proposed ordinance incorporates three groups of amendments recommended by the Planning Commission: PC 2011-1402 *Planning Commission Authorities*, PC 2011-1796 *Alternative Energy*, and PC 2011-2032 *Fire Stations*. The Planning Commission Resolutions recommending these zoning code amendments are attached.

#### Planning Commission Authorities - Ordinance Part I

These amendments update the Planning Commission authorities in Chapters 11.05 and 33 through 38 of the Multnomah County Code and were drafted by Assistant County Attorney Jed Tomkins, in coordination with the planning staff. The Planning Authorities provisions in the zoning code govern organization and membership of the Commission, filling of vacancies, and quorum and voting requirements. The proposed amendments improve consistency among the six zoning code chapters that contain regulations for the different planning areas in the county.

## Alternative Energy – Ordinance Part II

This zoning code amendment responds to changing economic and regulatory circumstances associated with development of photovoltaic energy systems in the state and expands opportunity to increase renewable energy consistent with Multnomah County's objectives related to the Climate Action Plan.

Not long after adoption of Multnomah County Ordinance 1176 in March 2011, staff received a request for approval of an accessory photovoltaic (PV) system larger than allowed in the Multnomah County Code (MCC). Changing technology and initiatives including the state's "Feed In Tariff" program make systems that exceed the 12kW limit adopted in Ordinance 1176 more economically viable. This indicates a need for greater flexibility in permitting these systems.

The proposed amendments respond to two additional changes since adoption of Ordinance 1176: new legislation from the 2011 session, and Oregon Administrative Rule (OAR) amendments adopted by the Land Conservation and Development Commission (LCDC) in December 2011. House Bill (HB) 3516 (2011) limits land use review of certain solar thermal or PV systems in zones where dwellings or commercial structures are allowed uses. The legislation applies to roof mounted systems only and does not include a capacity cap but limits the system size to the existing roof area and height of a residential or commercial building. LCDC adopted rules that define the scope of commercial photovoltaic generation facilities in exclusive farm use zones and include siting standards.

Oregon's Feed In Tariff pilot program allows a property owner to install an alternative energy system and receive incentive payments for excess energy sold to the power company. The State's goal for the program is to have 2,500 kW (2.5 megawatts) generated by small-scale residential and medium-scale commercial systems by 2025. Although the Feed In Tariff program is not permanent at this time, the concept that noncommercial systems should be able to provide 100% of the annual electrical energy needs of the site is a concept appropriate to substitute for the capacity cap in the zoning code. Characteristics of solar energy include seasonal fluctuations; therefore spreading the capacity over the entire year is a reasonable policy choice that allows a larger amount of renewable energy to be produced. This improves economic viability of noncommercial PV systems while ensuring their scale remains accessory to the primary use.

## Fire Stations – Ordinance Part III

At the request of the Multnomah County Rural Fire Protection District #10, the Planning Commission added to the 2012 Work Program consideration of a zoning code text amendment to add *fire stations* to the Multiple Use Agriculture – 20 (MUA-20) zone district. The West of Sandy River (WSR) Plan and zoning code Chapter 36, adopted in December of 2002 as Ordinance No. 1001, limits non-farm uses to protect the farm industry in the plan area. The change to Chapter 36 is needed to expand potential sites available for a replacement station. The existing fire facility is in the Orient Rural Center, and the fire district wants the flexibility to pursue nearby sites in the Multiple Use Agriculture-20 (MUA-20) zone. After review of applicable WSR policies, the Planning Commission recommends that the rural fire station use also be added to the Rural Residential (RR), Pleasant Home Rural Center (PH-RC) and Orient Commercial – Industrial zone districts subject to review and approval through the conditional Community Service Use process.

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

None

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

The alternative energy and fire station related amendments apply to areas where zoning code amendments are limited by either urban or rural reserve designations. The Multnomah County Framework Plan requires that amendments to the zoning code which add new uses or allow higher density in reserves areas may only be made when consistent with state administrative rules. Those

rules contain exceptions that allow amendments to include new uses when those uses could have been adopted prior to designation of the area as reserve (OAR 660-027-0070(4)(d)). Amending the code to include fire stations falls within this exception. The commercial solar photovoltaic facilities included in the Alternative Energy amendments are a subset of utility facilities that were allowed prior to reserves designations and are therefore not new uses limited by the reserves OAR.

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

The Planning Commission conducted at least one work session and one public hearing on each of the three amendments. The Commission considered the Authorities matter at work sessions in September 2011 and January 2012, followed by a hearing in February 2012. Work sessions and hearings on the Alternative Energy amendments occurred in February and March of 2012. The rural Fire Station amendments were considered at meetings in March and April 2012.

Planning staff discussed the amendments to the alternative energy code language with the Office of Sustainability and photovoltaic industry representatives.

Multnomah County Rural Fire Protection District #10 participated in Planning Commission proceedings leading up to this hearing.

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

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**Required Signature**

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**Elected  
Official or  
Department  
Director:**

Cecilia Collier /s/

**Date:**

4/25/12