



Supplemental Staff Report

TO: Board of County Commissioners
FROM: Land Use Planning Division
DATE: January 31, 2002
RE: Wildlife Habitat Conservation and Management Plan Ordinance

1. **Recommendation/Action Requested:** Adopt the attached ordinance.
2. **Background/Analysis:** In 1997, the Oregon Legislature created the Wildlife Habitat Conservation and Management Program to encourage landowners to protect and enhance wildlife habitat on private lands. Administered by the Oregon Department of Fish and Wildlife, the program is a cooperative effort to reward landowners for taking on the important role of wildlife stewards. The state program requires that a landowner with qualifying property develop a wildlife habitat conservation and management plan. Once the habitat plan is implemented, property enrolled in the program may be assessed at the farm use rate, even though the property is not farmed.

Recently the program was amended by expanding the program as well as requiring that all counties participate unless they elect to opt out.

3. **Financial Impact:** None identified. For land that is currently in farm deferral for agricultural practice, the program would not provide a net gain or a net loss in revenue if the property owner were to shift the use of land to wildlife habitat. For land that is currently zoned for exclusive farm use but not in farm deferral, that parcel could now receive deferral status once an approved Wildlife Habitat Conservation and Management Plan is implemented.
4. **Legal Issues:** None identified.
5. **Controversial Issues:** None identified.
6. **Link to Current County Policies:** There are several County policies that support the legislative intent of the 1997 Oregon Legislature which is to reward landowners for taking on the important role of wildlife stewards.

Comprehensive Framework Plan

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.

West Hills Rural Area Plan

POLICY 1: Where possible, use incentives, rather than restrictions or disincentives, to accomplish land use and other policies contained in the West Hills Rural Area Plan.

POLICY 25: Balance protection of significant streams with flexibility of use by property owners.

POLICY 26: Balance protection of wildlife habitat with flexibility of use by property owners.

East of Sandy River Rural Area Plan

Policy 49: Develop a recognition program for people showing good stewardship of streams and streamside property.

7. **Citizen Participation:** Multnomah County has policies that were developed during two rural area plans, with significant public input, which either conceptually or specifically support this program. In addition, 579 public notices were mailed out, pursuant to Ballot Measure 56, notifying property owners (with lands zoned EFU) of this proposed amendment and information about the program. A public hearing before the Planning Commission took place August 6, 2001 and testimony was heard. The testimony was unanimously in favor of the Program.
8. **Other Government Participation:** Multnomah County has had to coordinate internally with the Assessment and Taxation Division in implementing this program and will continue to do so as we move forward administratively to provide internal coordination. State and federal agencies participating in either review or implementation include the Oregon Department of Fish and Wildlife, Columbia River Gorge Commission, and United States Forest Service.

The Oregon Department of Fish and Wildlife (ODF&W) works with the landowner in developing the Wildlife Habitat and Conservation Management Plan and continues to oversee the Plan's implementation. The Planning staff will work together with ODF&W and County Assessment and Taxation in developing a streamline application process.

DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION

In the matter of recommending adoption of amendments)	RESOLUTION
to the Multnomah County Zoning Ordinance by the)	
Multnomah County Board of Commissioners regarding)	C 01-005
Wildlife Habitat Conservation and Management Plans as)	
a permitted use of land zoned for exclusive farm use)	

WHEREAS, The Planning Commission finds that the protection and preservation of the wildlife resources of this County ought to be encouraged by recognizing wildlife habitat conservation and enhancement as an allowed land use in areas zoned for exclusive farm use;

WHEREAS, The Oregon Legislature created the Wildlife Habitat Conservation and Management Program to encourage landowners to protect and enhance wildlife habitat on private lands;

WHEREAS, Administered by the Oregon Department of Fish and Wildlife, the program is a cooperative effort to reward landowners for taking on the important role of wildlife stewards;

WHEREAS, Property enrolled in the program is assessed at the farm use tax rate, even if the property is not farmed;

WHEREAS, There are several County policies that support the legislative intent of the 1997 Oregon Legislature, which is to reward landowners through the use of incentives to protect significant fish and wildlife habitat;

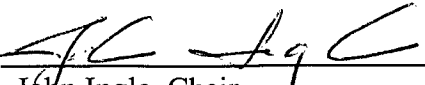
WHEREAS, On August 6, 2001, the Planning Commission held a public hearing to consider amendments to the Multnomah County Zoning Ordinance allowing Wildlife Habitat Conservation and Management Plans as an allowed use in the exclusive farm use zone and in the Columbia River Gorge National Scenic Area and to consider testimony from interested persons; and

WHEREAS, At the close of that hearing the Planning Commission recommended adoption of Wildlife Habitat Conservation and Management Plans as an allowed use in the exclusive farm use zone and Columbia River Gorge National Scenic Area.

It is hereby resolved:

That the Multnomah County Planning Commission hereby recommends that the proposed ordinance attached as Exhibit A be adopted by the Multnomah County Board of Commissioners.

APPROVED this 6th day of August 2001.

By 

John Ingle, Chair
Multnomah County Planning Commission
Multnomah County, Oregon

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Adopting an Amendment to Multnomah County Code Chapters 11.15, 33, 34, 35, and 38 Providing for a Wildlife Habitat Conservation and Management Plan as an Allowed Use on Lands Zoned for Exclusive Farm Use

(~~Struckthrough~~ language is deleted; double underlined language is new.)

The Multnomah County Board of Commissioners Finds:

a. In 1993, the Oregon Legislature created the Wildlife Habitat Conservation and Management Program as a pilot program to selected counties. The program was established to remove disincentives for private landowners who want to provide high quality wildlife habitat on their properties. In 1997, the Oregon Legislature expanded the program to all counties, and in 2001 expanded it again and furthermore specified that counties must decide affirmatively not to participate by January 1, 2003.

b. Landowners that qualify and participate in the program are rewarded for their stewardship with assessed property values equivalent to assessed property values for farm use.

c. There are several County policies that support the legislative intent of the 1997 Oregon Legislature, which is to reward landowners through the use of incentives to protect significant fish and wildlife habitat. The Fish and Wildlife Habitat policy of the County's Comprehensive Framework Plan is to protect significant fish and wildlife habitat, and to specifically limit conflicting uses within natural ecosystems within the rural portions of the County and as well as sensitive big game winter habitat areas. Within the West Hills Rural Area Plan, several policies provide that where possible, use incentives, rather than restrictions or disincentives, to accomplish land use and other policies contained in the West Hills Rural Area Plan. Also, balance protection of significant streams and wildlife habitat with flexibility of use by property owners. Lastly, the East of Sandy River Rural Area Plan envisions a recognition program for people showing good stewardship of streams and streamside property.

d. County residents acknowledge that the protection and preservation of the wildlife resources of this County is a benefit and ought to be encouraged by recognizing wildlife habitat conservation and enhancement as an allowed land

use in areas zoned for exclusive farm use and enjoy the benefits offered by the State Wildlife Habitat Conservation and Management Program.

e. The Oregon Department of Fish and Wildlife, which administers the Wildlife Habitat Conservation and Management Program, acknowledges that the program is intended to apply to exclusive farm use zones and mixed farm and forest zones in the Columbia River Gorge National Scenic Area.

The Multnomah County Board of Commissioners Ordains as Follows:

Section 1. MCC subsections 11.15.2008, 33.2620, 34.2620, 35.2620 are amended as follows:

11.15.2008 Primary Uses

(Q) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

33.2620 Allowed Uses

(T) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

34.2620 Allowed Uses

(T) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

35.2620 Allowed Uses

(T) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

Section 2. MCC subsections 38.0015, 38.220, 38.2225 are amended as follows:

38.0015 Definitions

W(5) Wildlife Habitat Conservation and Management Plan: ORS 215.800 to 215.802 and ORS 215.806 to 215.808. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

(6)(5) Woody plant: A gymnosperm or angiosperm that develops persistent, hard, fibrous tissues.

38.2220 Allowed Uses

(A) The following uses are allowed on land designated GGA without review:

- (1) Agricultural use, including actions implementing a Wildlife Habitat Conservation and Management Plan not involving ground disturbing activity, except new cultivation.

(B) The following uses are allowed on land designated GSA without review:

- (1) New agricultural uses as defined in MCC 38.0015, including actions implementing a Wildlife Habitat Conservation and Management Plan not involving ground disturbing activity, and except where there would be potential impact to cultural or natural resources.

38.2225 Review Uses

(A) The following uses may be allowed on lands designated GGA pursuant to the provision of MCC 38.0035:

- (1) New cultivation, including actions implementing a Wildlife Habitat Conservation and Management Plan involving ground disturbing activity, except subject to compliance with MCC 38.7045, 38.7055, 38.7060, 38.7065, and 38.7070.

(B) The following uses may be allowed on lands designated GSA-40 pursuant to MCC 38.0035, provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock:

- (9) Structures and vegetation management activities for the purpose of wildlife, fisheries, or plant habitat enhancement projects, including actions implementing a Wildlife Habitat Conservation and Management Plan involving ground disturbing activity.

Section 3. The effective date of Chapters 33, 34, and 35 shall be _____, 2002.

Section 4. The effective date of Chapter 38 Columbia River Gorge National Scenic Area shall be specified by the Bi-State Gorge Commission after their review and approval.

FIRST READING: _____, 2002

SECOND READING AND ADOPTION: _____, 2002

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane Linn, Chair

REVIEWED:

THOMAS SPONSER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Sandra N. Duffy, Deputy County Attorney