

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1176**

Amending MCC Chapters 33-36 Relating to Variances and Adjustments and Alternative Energy Systems; and Housekeeping Amendments to MCC Chapters 11.15, 11.45 and 33-38 to Update the Zoning Code

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

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

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 37.0710, and by ORS 215.110 to recommend to the Board of County Commissioners the adoption, amendment or revocation of ordinances to implement the Multnomah County Comprehensive Plan.
- b. The Planning Commission has adopted the following resolutions recommending adoption, amendment or revocation of ordinances to implement the Multnomah County Comprehensive Plan: PC-10-002, relating to amendment of Variance and Adjustment standards; PC-10-003, relating to adoption of Alternative Energy Systems standards; and PC-10-0005, relating to “housekeeping” amendments of certain definitions, permit expiration standards and procedures and subdivision plat standards.
- c. The Planning Commission held public hearings prior to the Commission’s adoption of the aforementioned resolutions as follows: PC-10-002, public hearing held on December 6, 2010; PC-10-003, public hearing held January 3, 2011; and PC 10-005, public hearing held on January 3, 2011. All interested persons were given an opportunity to appear and be heard. Notice of each of the foregoing Planning Commission hearings was published in the “Oregonian” newspaper and on the County Land Use Planning Program website.
- d. As stated in each of the aforementioned resolutions, the Planning Commission found that the proposed adoption, amendment or revocation of ordinances is necessary and recommended approval of these changes to the Multnomah County Board of Commissioners. The Board agrees with the Planning Commission’s recommendations.

**Multnomah County Ordains as follows:**

**PART I – AMENDMENTS TO VARIANCES AND ADJUSTMENTS**

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**Section 1.** MCC §§ 33.7606, 34.7606, 35.7606 and 36.7606 are amended as follows:

**33.7606 Scope**

**34.7606 Scope**

**35.7606 Scope**

**36.7606 Scope**

(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

(1) Reduction of ~~yards/setback/buffer~~resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in~~and~~ the Commercial Forest Use ~~fire safety zones~~ are not allowed under the Adjustment process; and

(2) Reduction of yards/~~and~~ setback/~~buffer~~ requirements within the Hillside Development overlay shall only be reviewed as a Variance, Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and

(3) Reduction of yards/setback/buffer/resource protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and

(34) Minor modification of yards ~~and/~~ setbacks/~~buffers~~ in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.

(B) Dimensional standards that may be modified under a Variance review are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, building height, sign height, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

(1) Reduction of ~~yards/setback/buffer~~resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts; and

(2) Modification of fire safety zone standards given in Commercial Forest Use districts; and

(3) Increase to any billboard height or any other dimensional sign standard.

(C) The dimensional standards listed in (A) and (B) above are the only standards eligible for Adjustment or Variance under these provisions. Adjustments and Variances are not allowed for any other standard including, but not limited to, minimum lot area, modification of a threshold of review (e.g. cubic yards for a Large Fill), modification of a definition (e.g. 30 inches of unobstructed open space in the definition of yard), modification of an allowed density in a Planned Development or houseboat moorage, or to allow a land use that is not allowed by the Zoning District.

## PART II – AMENDMENTS FOR ALTERNATIVE ENERGY SYSTEMS

**Section 2.** MCC §§ 33.0005, 34.0005, 35.0005 and 36.0005, Definitions, are amended to add the following definition:

**Accessory Alternative Energy System** -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity, and conveys that energy to uses allowed on the same tract as the primary use. Accessory Alternative Energy Systems typically convert mechanical energy into electrical energy. An Accessory Alternative Energy System is a solar, photovoltaic or wind turbine structure, or is composed of multiple structures, that individually or together have a total installed rating capacity of up to 12kW

**Section 3.** MCC § 38.0015, Definitions, is amended to add the following definition:

**Accessory Alternative Energy System** -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity, and conveys that energy to uses allowed on the same parcel. Accessory Alternative Energy Systems typically convert mechanical energy into electrical energy. An Accessory Alternative Energy System is a solar, photovoltaic or wind turbine structure, or is composed of multiple structures, that individually or together have a total installed rating capacity of up to 12kW.

**Section 4.** MCC §§ 33.2020, 33.2220, 33.2420, 33.2620, 33.2820, 33.3120 and 33.3320 are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 33.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency;

**Section 5.** MCC §§ 34.2620, 34.2820, 34.3120 and 34.3320 are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 34.0005;



- (b) The system meets all overlay zone requirements;
  - (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
  - (d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;
- (2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;
- (3) Wind Turbine Systems:
- (a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;
  - (b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency;

**Section 6.** MCC §§ 35.2020, 35.2220, 35.2620, 35.3120 and 35.3320 are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

- (1) All systems shall meet the following requirements:
- (a) The system is an accessory alternative energy system as defined in MCC 35.0005;
  - (b) The system meets all overlay zone requirements;
  - (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
  - (d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;
- (2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;
- (3) Wind Turbine Systems:
- (a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency;

**Section 7.** MCC §§ 36.2020, 36.2620, 36.3120, 36.3320, 36.3420 and 36.3520 are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 36.0005;

(b) The system meets all overlay zone requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency;

**Section 8.** MCC §§ 38.2025(A), 38.2225(A), 38.2425, 38.2825(A) & (B), 38.3025(A), 38.3225 are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all overlay zone requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080;

**Section 9.** MCC §§ 38.2025(B), 38.2225(B), 38.2825(C), 38.3025(B) are amended to add the following subsection:

( ) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district provided that:

(a) For all systems:

1. They are not a commercial power generating facility such as a utility;

2. The system meets all overlay zone requirements;

3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;

(b) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et al.;

2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al;

**Section 10.** MCC § 38.2625 is amended as follows:

**38.2625 Review Uses**

(A) The following uses may be allowed on lands designated GGO, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

- (1) Low intensity recreation, subject MCC 38.7080; and
- (2) Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural or recreation resources.
- (3) Repair, maintenance, operation, and improvement of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

\* \* \* \* \*

(B) The following uses are allowed on land designated GGO-GW, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

- (8) Repair, maintenance, operation, and improvement of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

\* \* \* \* \*

(C) The following uses are allowed on land designated GGO-SP, pursuant to MCC 38.0530 (B) and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

- (7) Repair, maintenance, operation, and improvement of existing structures (such as adding gutters, railings, shutters or solar or photovoltaic panels to the structure), trails, roads, railroads, utility facilities, and hydroelectric facilities.

\* \* \* \* \*



**PART III – HOUSEKEEPING AMENDMENTS FOR PERMIT EXPIRATION AND  
SUBDIVISION PLAT INFORMATION**

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**Section 11.** MCC §§ 33.0005, 34.0005, 35.0005, 36.0005 and 11.15.010, Definitions, are amended as follows:

**33.0005 Definitions.**

**34.0005 Definitions.**

**35.0005 Definitions.**

**36.0005 Definitions.**

**11.15.010 Definitions.**

\* \* \* \* \*

**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~~removal of vegetation.

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**Section 12.** MCC §§ 11.45.710, 33.8020, 34.8020, 35.8020, 36.8020, and 38.8020, Information Required on Subdivision Plat or Partition Plat, are amended as follows:

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition plat:

(A) Corners of adjoining subdivisions or partitions.

(B) The location, width and centerline of streets and easements abutting the boundaries of the land division.

(C) Any plat that includes land in areas of Special Flood Hazard or includes a water body or watercourse, as those features are described in MCC Chapter 29 Flood Hazard Regulations, shall contain a plat note indicating that portions of the plat are subject to flooding and/or high water. Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.

(D) The ownership of each private street shall be shown.

(E) Other certifications required by law.

**Section 13.** MCC §§ 33.8025, 34.8025, 35.8025, 36.8025 and 38.8025, Supplemental Information with Subdivision Plat or Partition Plat, are amended as follows:

The following shall accompany the subdivision plat or partition plat, as appropriate:

(A) A copy of any deed restrictions applicable to the subdivision or partition.



(B) A copy of any dedication requiring separate documents.

(C) As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs.

(D) A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition plat that depicts the normal flood plain or high water line for any water body or watercourse and the extent of areas of Special Flood Hazard as defined in MCC 29.

**Section 14.** MCC § 11.45.720 is amended as follows:

11.45.720 Supplemental Information with Subdivision Plat or Partition Plat

The following shall accompany the subdivision plat or partition plat, ~~as appropriate:~~

- A. A copy of any deed restrictions applicable to the subdivision or partition.
- B. A copy of any dedication requiring separate documents.
- C. A copy of the future street plan, when required, as recorded according to MCC 11.45.170(A).
- D. As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs.

(E) A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition plat that depicts the normal flood plain or high water line for any water body or watercourse and the extent of areas of Special Flood Hazard as defined in MCC 29.

**Section 15.** MCC § 37.0690 is amended as follows:

**37.0690 Expiration ~~And Extension~~ Of A Type II Or Type III Decision ~~in EFU and CFU Zones.~~**

(A) Type II or Type III land use approval issued pursuant to this Chapter for a use or development that does not include a structure shall expire two years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. Expiration of an approval means that a new application is required for uses that are not established during the approval period. For land divisions, "established" means the final deed or plat has been recorded with the county recorder.

(B) Except for approval of residential developments as specified in (C) below, a Type II or Type III land use approval issued pursuant to this Chapter for a use or development that includes a structure shall expire as described in 1 or 2 below:

(1) When construction has not commenced within two years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

(2) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(C) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is subject to the following provisions:

(1) The approval shall expire as described in (a) or (b) below:

(a) When construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.

(b) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.

(2) For the purposes of this section, the expiration provisions in (a) and (b) shall also apply to all other Type II or III decisions associated with approval of the residential development, such as SEC or HDP permits.

(3) The provisions in (C) shall only apply to residential development for which a decision of approval:

(a) Was valid (not expired) on January 1, 2002, or

(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).

(4) For the purposes of this section, “residential development” only includes dwellings as provided for under:

(a) ORS 215.283(1)(s) – alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 33.2620 (J), (L) & (M); 34.2620 (J), (L) & (M); 35.2620 (J), (L) & (M); 36.2620 (J), (L) & (M); and

(b) ORS 215.284 – dwelling not in conjunction with farm use in the EFU zones (not currently provided for in any MCC Chapter); and

(c) ORS 215.705 (1) to (3) – “Heritage Tract Dwelling” in the EFU zones as provided for in MCC 33.2625 (F); 33.2630 (O) & (P); 34.2625 (F); 34.2630 (O) & (P); 35.2625 (F); 35.2630 (O) & (P); 36.2625 (F); 36.2630 (J) & (K); and

(d) ORS 215.720 – “Heritage Tract Dwelling” in the CFU zones as provided in MCC 33.2230 (C); and 35.2230 (C); 36.2030 (C); and

(e) ORS 215.740 – “Large Acreage Dwelling” in the CFU zones as provided for in MCC 33.2030 (A); 33.2230 (A); 35.2230 (A); 36.2030 (A); and

(f) ORS 215.750 – “Template Dwelling” in the CFU zones as provided for in MCC 33.2230 (B); 33.2430 (A); 35.2230 (B); 36.2030 (B); and

(g) ORS 215.755 (1) – alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 33.2020 (D) & (E); 33.2025 (A) & (B); 33.2220 (D) & (E); 33.2225 (A) & (B); 33.2420 (D) & (E); 33.2425 (A) & (B); 35.2020 (D) & (E); 35.2025 (A) & (B); 35.2220 (D) & (E); 36.2020 (D); 36.2025 (A) & (B); and

(h) ORS 215.755 (3) a caretaker residence for a public park or public fish hatchery in the CFU zones as provided for in MCC 33.2020 (H); 33.2220 (H); 33.2420 (H); 35.2020 (H); 35.2220 (H); and 36.2020 (G).

(D) Expiration under (A), (B), or (C) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type II or III approval.

(E) Notwithstanding Subsections (A), (B), or (C) of this section, on exception lands the decision maker may set forth in the written decision specific instances or time periods when a permit expires.

(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings.

(A) Except for approval of residential developments as specified in (B) below, a Type II or III decision approving development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is void two years from the date of the final decision if the development action is not initiated in that period. The Planning Director may grant one extension period of up to 12 months if:

(1) An applicant makes a written request for an extension of the development approval period;

(2) The request is submitted to the county prior to the expiration of the approval period;

(3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and

(4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(5) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

(6) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

(B) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is void four years from the date of the final decision if the development action is not initiated in that period.

(1) For the purposes of this section, the expiration dates in (B) and (C) shall also apply to all other Type II or III decisions associated with approval of the residential development, such as SEG or HDP permits.

(2) The provisions in (B) and (C) shall only apply to residential development for which a decision of approval:

(a) Was valid (not expired) on January 1, 2002, or



~~(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).~~

~~(3) For the purposes of this section, “residential development” only includes dwellings as provided for under:~~

~~(a) ORS 215.283(1)(s)—alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 33.2620 (J), (L) & (M); 34.2620 (J), (L) & (M); 35.2620 (J), (L) & (M); 36.2620 (J), (L) & (M); and~~

~~(b) ORS 215.284—dwelling not in conjunction with farm use in the EFU zones (not currently provided for in any MCC Chapter); and~~

~~(c) ORS 215.705 (1) to (3)—“Heritage Tract Dwelling” in the EFU zones as provided for in MCC 33.2625 (F); 33.2630 (O) & (P); 34.2625 (F); 34.2630 (O) & (P); 35.2625 (F); 35.2630 (O) & (P); 36.2625 (F); 36.2630 (J) & (K); and~~

~~(d) ORS 215.720—“Heritage Tract Dwelling” in the CFU zones as provided in MCC 33.2230 (C); and 35.2230 (C); 36.2030 (C); and~~

~~(e) ORS 215.740—“Large Acreage Dwelling” in the CFU zones as provided for in MCC 33.2030 (A); 33.2230 (A); 35.2230 (A); 36.2030 (A); and~~

~~(f) ORS 215.750—“Template Dwelling” in the CFU zones as provided for in MCC 33.2230 (B); 33.2430 (A); 35.2230 (B); 36.2030 (B); and~~

~~(g) ORS 215.755 (1)—alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 33.2020 (D) & (E); 33.2025 (A) & (B); 33.2220 (D) & (E); 33.2225 (A) & (B); 33.2420 (D) & (E); 33.2425 (A) & (B); 35.2020 (D) & (E); 35.2025 (A) & (B); 35.2220 (D) & (E); 36.2020 (D); 36.2025 (A) & (B); and~~

~~(h) ORS 215.755 (3) a caretaker residence for a public park or public fish hatchery in the CFU zones as provided for in MCC 33.2020 (H); 33.2220 (H); 33.2420 (H); 35.2020 (H); 35.2220 (H); and 36.2020 (G).~~

~~(C) The Planning Director shall grant one extension period of 24 months for approvals of dwellings listed in (B) above if:~~

~~(1) An applicant makes a written request for an extension of the development approval period;~~

~~(2) The request is submitted to the county prior to the expiration of the approval period;~~

~~(3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and~~

~~(4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.~~

~~(5) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.~~

~~(D) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.~~



~~(E) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the County. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).~~

**Section 16.** MCC § 37.0750 and 38.0750 are renumbered and amended as follows:

**37.0750-0691 Expiration Of Prior Land Use Decisions.**

All land use decisions authorized prior to January 1, 2001 (Ord. 953 & Ord. 997) shall expire on January 1, 2003, unless:

- (A) A different timeframe was specifically included in the decision, or
- (B) The decision was for “residential development,” as specified in MCC 37.0690~~(BC)~~(3), which have the expiration timeframes of MCC 37.0690~~(B)~~ and (C)(1).

**38.0750-0691 Expiration of prior land use decisions.**

All land use decisions authorized prior to March 19, 2001 (Ord. No. 953 & Ord. 997) shall expire on March 19, 2003, unless a different timeframe was specifically included in the decision.

**Section 17.** MCC § 37.0695 is added and MCC § 37.0700 is deleted as follows:

**37.0695 Extension of a Type II or Type III Decision**

(A) The Planning Director shall grant one extension period of 24 months for approvals of dwellings listed in Section 37.0690(C) and shall grant one extension period of up to 12 months for all other approvals provided:

- (1) An applicant makes a written request for an extension of the development approval period;
- (2) The request is submitted to the county prior to the expiration of the approval period;
- (3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
- (4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(B) Pursuant to OAR 660-033-0140, approval of an extension in EFU and CFU districts is an administrative decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision. All other extension requests authorized by this section are land use decisions and shall be reviewed under the Type II procedures set forth in MCC 37.0580.

(C) Additional one year extensions shall be authorized where applicable criteria for the decision have not changed. For each additional extension the Planning Director shall confirm compliance with the standards in MCC 37.0695 (A) (1-4).

**~~37.0700 Expiration and Extension Of Type II Or Type III Decisions In Exception Areas and Lands Within the UGB.~~**

~~(A) All Type II and Type III approvals automatically become void if any of the following events occur:~~

~~(1) If, within two years of the date of the final decision, all necessary building permit(s) have not been issued, if required; or~~

~~(2) If, within two years of the date of the final decision, the development action or activity approved in the decision is not initiated or, in situations involving only the creation of lots or property line adjustments, the final survey or plat has not been approved by the Planning Director and recorded.~~

~~(B) Notwithstanding Subsection (A) of this section, on exception lands the decision maker may set forth in the written decision, specific instances or time periods when a permit expires.~~

~~(C) The Planning Director may extend any approved decision for a period of six months up to an aggregate period of one year; provided, however, that there has been substantial implementation of the permit and the request is submitted prior to the expiration of the approval period. Any request for an extension shall be reviewed and decided upon by the Planning Director as a Type II decision.~~

~~(D) Substantial implementation of a permit shall require at a minimum, for each six month extension, demonstrable evidence in a written application showing:~~

~~(1) The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit;~~

~~(2) Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder;~~

~~(3) The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition thereunder; and~~

~~(4) There have been no changes in circumstances or the law likely to necessitate significant modifications to the approval.~~

~~(E) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.~~

~~(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the County. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).~~

**Section 18.** MCC §§ 37.0760 and 38.0760 are renumbered as follows:

**37.~~0760~~-0702 Revocation Of Decisions.**

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the County's approval, the County may institute a revocation or modification proceeding under this section.

\* \* \* \* \*

**38.~~0760~~-0702 Revocation of Decisions.**

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the County's approval, the County may institute a revocation or modification proceeding under this section.

\* \* \* \* \*

**Section 19.** MCC §§ 37.0530, 37.0550 and 38.0550 are amended as follows:

**37.0530 Summary Of Decision Making Processes.**

The following decision making processes chart shall control the County's review of the indicated permits:

APPROVAL PROCESS					
Permit Type	I	II	III	IV	PC
Initial Approval Body	(Not a "land use decision")	(Planning Director)	(Hearings Officer)	(Planning Commission)	(Legislative)
Allowed Uses	X				
Review Uses		X			
Conditional Uses			X		
Community Service			X		
Design Review		X			
Plan/Zone Change (single tract) quasi-judicial				X	
Demolition of historic building or structure before 120 day permit delay				X	
Plan/Zone Changes-legislative					X
Zone Code Text Changes (Initiated by county only)					X
Creation of a parcel/lot not abutting a street			X		
Adjustment		X			
Variance			X		
Non-conforming Uses/Determination of Non- conforming Use		X			

APPROVAL PROCESS					
Permit Type	I	II	III	IV	PC
Initial Approval Body	(Not a "land use decision")	(Planning Director)	(Hearings Officer)	(Planning Commission)	(Legislative)
Extensions of Decisions in EFU & CFU Zones ( <del>MCC 37.0690</del> )	X				
All other Extensions of Decisions		X			
Revocation of Decision		X			
Property Line Adjustments		X			
Planned Developments			X		
Land Divisions:					
Category 1 & 2			X		
Category 3 & 4		X			
Significant Environmental Concern		X			
Hillside Development Permit		X			
Willamette River Greenway		X			
Zoning Code Interpretations		X			
Temporary Permits		X			
Temporary Health Hardship		X	X If CU		
Bus Shelter		X			
Lot of Record Verification		X			
Lot of Exception		X			
Exceptions		X			
Post Emergency response to emergency/disaster event		X			
Lot Consolidation	X				
Replat		X			
All other discretionary decisions		X			
First response to emergency/disaster event	X				
Grading and Erosion Control	X				
Floodplain Development	X				
Property Addressing	X				
Street Naming & Renaming			X		
Type A Home Occupation	X				

\* \* \* \* \*

### 37.0550 Initiation Of Action.

Except as provided in MCC 37.~~07600702~~, 33.7785, 34.7785, 35.7785, and 36.7785, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser, or by a government agency that has the power of eminent domain. PC (legislative) actions may only be initiated by the Board, Planning Commission, or Planning Director.



**38.0550 Initiation of action.**

Except as provided in MCC 38.07600702, Type I - III applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

**Section 20.** The amendments to Chapter 38 Columbia River Gorge National Scenic Area shall be effective upon notification of approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

FIRST READING:

February 24, 2011

SECOND READING AND ADOPTION:

March 3, 2011



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:

HENRY H. LAZENBY, JR., COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Jed Tomkins, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Service

BEFORE THE PLANNING COMMISSION  
for MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC-10-002**

In the matter of recommending that the Board of Commissioners amend Multnomah County Code Chapters 33, 34, 35 and 36 to clarify when relief to certain dimensional standards through Adjustments and Variances may be requested.

**The Planning Commission of Multnomah County Finds:**

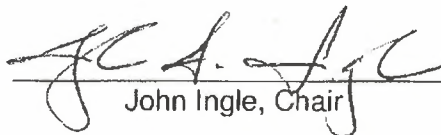
- a. The Planning Commission is authorized by Multnomah County Code Chapters 11.05, and 33 through 36, to recommend to the Board of County Commissioners the adoption, revision, or repeal of regulations intended to carry out all or part of a plan adopted by the Board.
- b. The individual Zoning Code and Code chapters should be periodically updated and amendments adopted. Review and enactment of "housekeeping" amendments of the Zoning Code is needed as technical errors and unclear provisions are found.
- c. The provisions in MCC Chapters 33, 34, 35, and 36 should be amended to clarify when relief to certain dimensional standards may be sought through an Adjustment or Variance when the property contains environmental overlay zones. Current code contains ambiguous language that can be interpreted to mean no Adjustments or Variances may be granted in the overlay zones, which is contrary to the intent of the environmental overlays as well as the Adjustment and Variance's intent.
- d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56 notice").
- e. Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages.

**The Planning Commission of Multnomah County Resolves:**

The proposed Ordinance amending MCC Chapters 33, 34, 35 and 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 6th day of December, 2010.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE PLANNING COMMISSION  
for MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC-10-003**

In the matter of recommending that the Board of Commissioners amend Multnomah County Code Chapters 33, 34, 35, 36 and 38 to allow alternative energy production systems as accessory to a use permitted in the zoning district with production limitations.

**The Planning Commission of Multnomah County Finds:**


- a. The Planning Commission is authorized by Multnomah County Code Chapters 11.05, and 33 through 38, to recommend to the Board of County Commissioners the adoption, revision, or repeal of regulations intended to carry out all or part of a plan adopted by the Board.
- b. The County Framework Plan Policy 22: Energy Conservation, supports energy conservation and reduction in the use of non-renewable energy, and efforts to allow greater flexibility in the development and use of renewable energy resources.
- c. The provisions in MCC Chapters 33, 34, 35, 36, and 38 should be amended to include limited Alternative Energy Production Systems as accessory to uses permitted in the zoning district. Such systems support the County's goals and values to be promote less dependence on non-renewable resources while encouraging land owners to be more sustainable.
- d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56 notice").
- e. Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages.

**The Planning Commission of Multnomah County Resolves:**

The proposed Ordinance amending MCC Chapters 33, 34, 35, 36, and 38 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3<sup>rd</sup> day of January, 2011.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

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

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 10-005**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapters 11.15, 11.45, 33, 34, 35, 36, and 38 relating to definitions, consistency of permit expiration and extension provisions, and information required on subdivision plats.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 37.0710 and 38.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan and land use regulations.
- b. Periodic review and enactment of amendments to the zoning code is needed as technical errors and unclear or outdated provisions are found.
- c. The recommended changes correct the definition of development, update provisions that require stream and flood related areas to be shown on final land division documents, and consolidate and simplify provisions for permit expiration and extension in MCC Chapter 37. The changes to permit expiration and extension provisions in MCC Chapter 38 are limited to renumbering two sections to group these related rules together in the code.
- d. The approval standards applicable to extension of permits in farm, forest, and exception zone districts should be the same as those in Oregon Administrative Rules Division 660-033 for farm and forest permits. Decisions should be processed through a non-discretionary Type 1 review to the extent allowable by those provisions.
- e. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56" notice). Notice of the Planning Commission hearing was published in the "Oregonian" newspaper and on the Land Use Planning program web site.
- f. The Planning Commission held a public hearing on January 3, 2011 where all interested persons were given an opportunity to appear and be heard.



**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapters 11.15, 11.45, 33, 34, 35, 36, and 38 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 3rd day of January, 2011.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair