

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1114**

Amending the Multnomah County Code and Framework Plan Relating to: Alternative Uses of Public School Buildings; Lot of Record Requirements to Correct Unlawfully Divided Parcels; Easement Placement During Land Divisions; Permit Processing Timelines; Biofuel Facilities; and Substandard Lot Size for Public Parks or Conservation

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

**Multnomah County Ordains as follows:**

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**PART I - Amending MCC Chapters 33-36 and 11.15 and The Framework Plan Relating To  
Alternative Uses Of Public School Buildings**

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**Section 1.      MCC §§ 33.6015, 34.6015, 35.6015 and 11.15.7020 are amended as follows:**

**33.6015 Uses**

(A) Except as otherwise limited in the EFU, CFU-1, CFU-2, and CFU-5 districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU-1, CFU-2, and CFU-5 districts are limited to those uses listed in each respective district.

\* \* \*

(27) Wireless communications facilities

(28) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 33.6050.

~~(28)~~(29) Accessory uses to the above.

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

**34.6015 Uses**

(A) Except as otherwise limited in the EFU district, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU district are limited to those uses listed in the district.

\* \* \*

(27) Wireless communication facilities.

(28) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 34.6050.

(~~28~~29) Accessory uses to the above.

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

### **35.6015 Uses**

(A) Except as otherwise limited in the EFU, CFU-3, and CFU-4 districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

Allowed Community Service Uses in the EFU, CFU-3, and CFU-4 districts are limited to those uses listed in each respective district.

\* \* \*

(27) Wireless communications facilities.

(28) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 35.6050.

(~~28~~29) Accessory uses to the above.

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

### **36.6015 Uses.**

(A) Except as otherwise limited in the EFU and CFU districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority

Allowed Community Service Uses in the EFU and CFU districts are limited to those uses listed in each respective district.

\* \* \*

(16) Mining and processing of geothermal resources.

(17) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 36.6050.

(~~17~~18) Accessory uses to the above.

(B) Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

## **11.15.7020 Uses**

A. Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC 11.15.2048 through .2050, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.

\* \* \*

26. Mining and processing of geothermal resources.

27. Limited alternative uses of surplus public school space pursuant to the provisions in MCC 11.15.7022.

2728. Accessory uses to the above.

B. Approval of a Community Service Use shall be deemed to authorize associated public utilities, including energy and communication facilities.

### **Section 2. MCC §§ 33.6050, 34.6050, 35.6050, 36.6050 and 11.15.7022 are amended as follows:**

#### **33.6050- Limited Alternative Uses of Surplus Public School Space Located in MUA-20, RR, and RC Districts**

(A) Purpose – The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space located in MUA-20, RR, and RC districts by authorizing those uses which are beneficial to or compatible with the community.

~~(1) The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 33.6050.~~

(B) Minor Uses – The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses only be permitted after public review in a Type III approval process by the affected school district board.

~~Subject to the provisions of MCC 33.6050 (F), (H), and (I) Community Service approval criteria of MCC 33.6010 and the restrictions of MCC 33.6020, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building where the total of such space does not exceed 20 percent of the classroom space in the building:~~

(1) Adult, teen or senior center.

(2) Community food or non-profit hot meals service.

(3) ~~Day nursery, kindergarten or a~~After-school child care.

(4) ~~Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.~~

(54) Health center, including counseling, well-baby clinic, or physical therapy.

~~(6) Library.~~

(75) Accessory uses common to the above uses.

~~The 20 percent of the classroom space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.~~

(C) Other Uses – Subject to the ~~provisions of MCC 33.6050 (G), (H), and (I)~~ approval criteria of MCC 33.6050(D) and the restrictions of MCC 33.6020, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

~~(1) Those uses listed in (B) above when occupying more than 20 percent of the building classroom space.~~

(2) Arts or crafts gallery or sales.

(32) Community access cable TV studio.

~~(4) Computer or data processing facility.~~

(53) ~~Governmental branch office or subcenter~~ Non-profit community theater.

(64) Office of non-profit ~~or charitable~~ group or association.

(75) Professional or business office.

(86) Accessory uses common to the above uses.

~~(D) Exceptions—The uses listed in 33.6050 (B) and (C) do not include a corrections center, halfway house or rehabilitation facility.~~

~~(E) Pre-existing Uses—A use listed in 33.6050 (B) and (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.~~

~~(F) Action on Minor Uses—Action on a proposal to locate a use listed in MCC 33.6050 (B) shall be taken by the school district board.~~

~~(1) The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.~~

~~(2) Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.~~

~~(3) The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC 33.0670 (A).~~

~~(4) The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.~~

~~(G) Action on Other Uses—Action on a proposal to locate a use listed in MCC 33.6050 (C) shall be taken under the provisions of MCC 33.0700 through 33.0790, modified to substitute *School District Board for Approval Authority or Planning Commission*, and further modified as follows:~~

~~(1) An action may only be initiated by the school district board under MCC 33.0705 (A).~~

~~(2) The school district board shall:~~

~~(a) Act to give notice of public hearing under MCC 33.0715;~~

~~(b) Conduct the required hearing(s) under MCC 33.0725;~~

~~(c) Make findings of fact and conclusions under MCC 33.0730;~~

~~(d) Make decisions under MCC 33.0735;~~

~~(e) Maintain proceeding records under MCC 33.0740; and~~

~~(3) The school district board shall file the written decision in accordance with MCC 33.0735. The Planning Director and the Clerk of the Board shall follow the requirements of MCC 33.0720.~~

~~(4) The decision of the school district board shall become final on the 12<sup>th</sup> business day following submittal to the Clerk of the Board of County Commissioners unless the Board of County Commissioners orders review under MCC 33.0760.~~

~~(5) Exception—At the option of the school district board, action proceedings may be taken by the Approval Authority.~~

~~(HD) Approval Criteria – In approving an alternative use listed in 33.6050 (B) or (C), the approval authority shall find:~~

~~(1) The approval criteria of MCC 33.6010 are satisfied; and~~

~~(2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and~~

~~(3) The use:~~

~~(a) wWill provide an appropriate public facility or public non-profit service to the immediate area of or community; or~~

~~(b) (4) The use iIs consistent with urban-rural area needs in a location and under circumstances reasonably suitable for the purpose; and~~

~~(54) There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and~~

~~(65) The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.~~

~~(I) Approval Conditions—The approval authority may impose approval limitations or conditions as listed in MCC 33.6005 (E).~~

### **34.6050- Limited Alternative Uses of Surplus Public School Space Located in MUA-20, RR and RC Districts**

(A) Purpose – The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space located in MUA-20, RR, and RC districts by authorizing those uses which are beneficial to or compatible with the community.

~~(1) The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 34.6050.~~

(B) Minor Uses – The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses only be permitted after public review in a Type III approval process by the affected school district board.

Subject to the Community Service approval criteria of MCC 34.6010 and the restrictions of MCC 34.6020~~provisions of MCC 34.6050 (F), (H), and (I)~~, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building where the total of such space does not exceed 20 percent of the classroom space in the building:

- (1) Adult, teen or senior center.
- (2) Community food or non-profit hot meals service.
- (3) ~~Day nursery, kindergarten or a~~ After-school child care.
- (4) ~~Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.~~
- (5) Health center, including counseling, well-baby clinic, or physical therapy.
- (6) ~~Library.~~
- (7) Accessory uses common to the above uses.

~~The 20 percent of the classroom space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.~~

(C) Other Uses – Subject to the provisions of MCC 34.6050 (G), (H), and (I) approval criteria of MCC 34.6050(D) and the restrictions of MCC 34.6020, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

- (1) ~~Those uses listed in (B) above when occupying more than 20 percent of the building classroom space.~~
- (2) Arts or crafts gallery or sales.
- (3) Community access cable TV studio.
- (4) ~~Computer or data processing facility.~~

~~(53) Governmental branch office or subcenter~~Non-profit community theater.

~~(64) Office of non-profit or charitable group or association.~~

~~(75) Professional or business office.~~

~~(86) Accessory uses common to the above uses.~~

~~(D) Exceptions—The uses listed in 34.6050 (B) and (C) do not include a corrections center, halfway house or rehabilitation facility.~~

~~(E) Pre-existing Uses—A use listed in 34.6050 (B) or (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.~~

~~(F) Action on Minor Uses—Action on a proposal to locate a use listed in 34.6050 (B) shall be taken by the school district board.~~

~~(1) The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.~~

~~(2) Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.~~

~~(3) The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC 34.0670 (A).~~

~~(4) The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.~~

~~(G) Action on Other Uses—Action on a proposal to locate a use listed in MCC 34.6050 (C) shall be taken under the provisions of MCC 34.0700 through 34.0790, modified to substitute *School District Board for Approval Authority or Planning Commission*, and further modified as follows:~~

~~(1) An action may only be initiated by the school district board under MCC 34.0705 (A).~~

~~(2) The school district board shall:~~

~~(a) Act to give notice of public hearing under MCC 34.0715;~~

~~(b) Conduct the required hearing(s) under MCC 34.0725;~~

~~(c) Make findings of fact and conclusions under MCC 34.0730;~~

~~(d) Make decisions under MCC 34.0735;~~

~~(e) Maintain proceeding records under MCC 34.0740; and~~

~~(3) The school district board shall file the written decision in accordance with MCC 34.0734. The Planning Director and the Clerk of the Board shall follow the requirements of MCC 34.0720.~~

~~(4) The decision of the school district board shall become final on the 12<sup>th</sup> business day following submittal to the Clerk of the Board of County Commissioners unless the Board of County Commissioners orders review under MCC 34.0760.~~

~~(5) Exception — At the option of the school district board, action proceedings may be taken by the Approval Authority.~~

**(HD) Approval Criteria** – In approving an alternative use listed in 34.6050 (B) or (C), the approval authority shall find:

- (1) The approval criteria of MCC 34.6010 are satisfied; and
- (2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and
- (3) The use:
  - ~~(a) w~~Will provide an appropriate public facility or public non-profit service to the immediate area of community; or
  - ~~(4b) The use i~~s consistent with urban-rural area needs in a location and under circumstances reasonably suitable for the purpose; and
- ~~(54)~~ There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and
- ~~(65)~~ The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

~~(I) Approval Conditions — The approval authority may impose approval limitations or conditions as listed in MCC 34.6005 (E).~~

### **35.6050- Limited Alternative Uses of Surplus Public School Space Located in MUA-20, RR and RC Districts**

(A) Purpose – The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space located in MUA-20, RR, and RC districts by authorizing those uses which are beneficial to or compatible with the community.

~~(1) The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 35.6050.~~

(B) Minor Uses – The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses only be permitted after public review in a Type III approval process by the affected school district board.

Subject to the ~~provisions of MCC 35.6050 (F), (H), and (I)~~ Community Service approval criteria of MCC 35.6010 and the restrictions of MCC 35.6020, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building ~~where the total of such space does not exceed 20 percent of the classroom space in the building:~~

- (1) Adult, teen or senior center.
- (2) Community food or non-profit hot meals service.



~~(3) Day nursery, kindergarten or a~~After-school child care.

~~(4) Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.~~

~~(54)~~ Health center, including counseling, well-baby clinic, or physical therapy.

~~(6) Library.~~

~~(75)~~ Accessory uses common to the above uses.

~~The 20 percent of the classroom space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.~~

(C) Other Uses – Subject to the ~~provisions of MCC 35.6050 (G), (H), and (I)~~approval criteria of MCC 35.6050(D) and the restrictions of MCC 35.6020, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

~~(1) These uses listed in (B) above when occupying more than 20 percent of the building classroom space.~~

~~(21)~~ Arts or crafts gallery or sales.

~~(32)~~ Community access cable TV studio.

~~(4) Computer or data processing facility.~~

~~(53) Governmental branch office or subcenter~~Non-profit community theater.

~~(64) Office of non-profit or charitable group or association.~~

~~(75)~~ Professional or business office.

~~(86)~~ Accessory uses common to the above uses.

~~(D) Exceptions—The uses listed in 35.6050 (B) and (C) do not include a corrections center, halfway house or rehabilitation facility.~~

~~(E) Pre-existing Uses—A use listed in 35.6050 (B) or (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.~~

~~(F) Action on Minor Uses—Action on a proposal to locate a use listed in 35.6050 (B) shall be taken by the school district board.~~

~~(1) The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.~~

~~(2) Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.~~

~~(3) The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC 35.0670 (A).~~

~~(4) The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.~~

~~(G) Action on Other Uses — Action on a proposal to locate a use listed in MCC 35.6050 (C) shall be taken under the provisions of MCC 35.0700 through 35.0790, modified to substitute *School District Board* for *Approval Authority* or *Planning Commission*, and further modified as follows:~~

~~(1) An action may only be initiated by the school district board under MCC 35.0705 (A).~~

~~(2) The school district board shall:~~

~~(a) Act to give notice of public hearing under MCC 35.0715;~~

~~(b) Conduct the required hearing(s) under MCC 35.0725;~~

~~(c) Make findings of fact and conclusions under MCC 35.0730;~~

~~(d) Make decisions under MCC 35.0735;~~

~~(e) Maintain proceeding records under MCC 35.0740; and~~

~~(3) The school district board shall file the written decision in accordance with MCC 35.0735. The Planning Director and the Clerk of the Board shall follow the requirements of MCC 35.0720.~~

~~(4) The decision of the school district board shall become final on the 12<sup>th</sup> business day following submittal to the Clerk of the Board of County Commissioners unless the Board of County Commissioners orders review under MCC 35.0760.~~

~~(5) Exception — At the option of the school district board, action proceedings may be taken by the Approval Authority.~~

~~(H)~~ D Approval Criteria – In approving an alternative use listed in 35.6050 ~~(B) or (C)~~, the approval authority shall find:

(1) The approval criteria of MCC 35.6010 are satisfied; and

(2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and

(3) The use;

(a) ~~w~~Will provide an appropriate public facility or public non-profit service to the immediate area of community; or

(4b) ~~The use is~~ consistent with urban-rural area needs in a location and under circumstances reasonably suitable for the purpose; and

(54) There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and

(65) The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

~~(F) Approval Conditions — The approval authority may impose approval limitations or conditions as listed in MCC 35.6005 (E).~~

**36.6050- Limited Alternative Uses of Surplus Public School Space Located in MUA-20, RR, PH-RC, and OR Districts.**

(A) Purpose - The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space located in MUA-20, RR, PH-RC, and OR districts by authorizing those uses which are beneficial to or compatible with the community.

~~(1) The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 36.6050.~~

(B) Minor Uses - The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses ~~only be permitted after public review in a Type III approval process by the affected school district board.~~

Subject to the ~~provisions of MCC 36.6050 (F), (H), and (I)~~Community Service approval criteria of MCC 36.6010 and the restrictions of MCC 33.6020, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in an existing public school building ~~where the total of such space does not exceed 20 percent of the classroom space in the building:~~

(1) Adult, teen or senior center.

(2) Community food or non-profit hot meals service.

(3) ~~Day nursery, kindergarten or a~~After-school child care.

~~(4) Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.~~

~~(5)~~ Health center, including counseling, well-baby clinic, or physical therapy.

~~(6) Library.~~

~~(7)~~ Accessory uses common to the above uses.

~~The 20 percent of the classroom space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.~~

(C) Other Uses - Subject to the ~~provisions of MCC 36.6050 (G), (H), and (I)~~approval criteria of MCC 36.6050(D) and the restrictions of MCC 36.6020, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

~~(1) Those uses listed in (B) above when occupying more than 20 percent of the building classroom space.~~

(21) Arts or crafts gallery or sales.

(32) Community access cable TV studio.

(4) Computer or data processing facility.

(53) Governmental branch office or subcenter Non-profit community theater.

(64) Office of non-profit or charitable group or association.

(75) Professional or business office.

(86) Accessory uses common to the above uses.

~~(D) Exceptions—The uses listed in MCC 36.6050 (B) and (C) do not include a corrections center, halfway house or rehabilitation facility.~~

~~(E) Pre-existing Uses—A use listed in MCC 36.6050 (B) or (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.~~

~~(F) Action on Minor Uses—Action on a proposal to locate a use listed in MCC 36.6050 (B) shall be taken by the school district board.~~

~~(1) The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.~~

~~(2) Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.~~

~~(3) The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC 36.0670 (A).~~

~~(4) The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.~~

~~(G) Action on Other Uses—Action on a proposal to locate a use listed in MCC 36.6050 (C) shall be taken under the provisions of MCC 36.0700 through 36.0790, modified to substitute School District Board for Approval Authority or Planning Commission, and further modified as follows:~~

~~(1) An action may only be initiated by the school district board under MCC 36.0705 (A).~~

~~(2) The school district board shall:~~

~~(a) Act to give notice of public hearing under MCC 36.0715;~~

~~(b) Conduct the required hearing(s) under MCC 36.0725;~~

~~(c) Make findings of fact and conclusions under MCC 36.0730;~~

~~(d) Make decisions under MCC 36.0735;~~

~~(e) Maintain proceeding records under MCC 36.0740; and~~

~~(3) The school district board shall file the written decision in accordance with MCC 36.0736. The Planning Director and the Clerk of the Board shall follow the requirements of MCC 36.0720.~~

~~(4) The decision of the school district board shall become final on the 12th business day following submittal to the Clerk of the Board of County Commissioners unless the Board of County Commissioners orders review under MCC 36.0760.~~

~~(5) Exception—At the option of the school district board, action proceedings may be taken by the Approval Authority.~~

~~(HD)~~ Approval Criteria - In approving an alternative use listed in 36.6050 ~~(B) or (C)~~, the approval authority shall find:

(1) The approval criteria of MCC 36.6010 are satisfied; and

(2) The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and

(3) The use;

~~(a) w~~(a) Will provide an appropriate public facility or public non-profit service to the immediate area of community; or

~~(4b) The use is~~ consistent with urban-rural area needs in a location and under circumstances reasonably suitable for the purpose; and

~~(54)~~ There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and

~~(65)~~ The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

~~(I) Approval Conditions—The approval authority may impose approval limitations or conditions as listed in MCC 36.6005 (E).~~

### **11.15.7022 Limited Alternative Uses of Surplus Public School Space**

A. Purpose The purpose of this section is to facilitate the efficient alternative use of vacant or under-utilized public school building space by authorizing those uses which are beneficial to or compatible with the community.

~~1. The school district board having jurisdiction over the school building in question, is hereby designated as the approval authority for the purposes of MCC 11.15.7022.~~

B. Minor Uses The Board finds that the uses listed in this subsection are so similar to school use in land use impact, that they should be allowed as accessory or alternative uses to approved school use. At the same time, the policy of citizen involvement and open public participation dictates that these listed uses only be permitted after public review in a new Type III approval process by the affected school district board.

Subject to the provisions of MCC .7022(F),(H), and (I) Community Service approval criteria of MCC .11.15.7015 and the restrictions of MCC 11.15.7025, one or more of the following alternative uses may be permitted to occupy vacant or under-utilized space in

an existing public school building ~~where the total of such space does not exceed 20 percent of the classroom space in the building:~~

1. Adult, teen or senior center.
2. Community food or non-profit hot meals service.
3. ~~Day nursery, kindergarten or a~~ After-school child care.
4. ~~Day or evening classes, such as high school or college level courses, vocational school, physical fitness, indoor or outdoor recreation.~~
- 5.4. Health center, including counseling, well-baby clinic, or physical therapy.
- ~~6. Library.~~
- 7.5. Accessory uses common to the above uses.

~~The 20 percent of the classroom space standard shall be interpreted narrowly so as to rule out the applicability of this subsection in the event of doubt.~~

C. Other Uses Subject to the ~~provisions of MCC .7022(G), (H), and (I)~~ approval criteria of MCC 11.15.7022(D) and the restrictions of 11.15.7025, the following alternative uses may be permitted to occupy vacant or under-utilized space in the existing public school building after public review in a Type III approval process:

- ~~1. Those uses listed in (B) above when occupying more than 20 percent of the building classroom space.~~
- 2.1. Arts or crafts gallery or sales.
- 3.2. Community access cable TV studio.
- ~~4. Computer or data processing facility.~~
- 5.3. ~~Governmental branch office or subcenter~~ Non-profit community theater.
- 6.4. Office of non-profit ~~or charitable group or association.~~
- 7.5. Professional or business office.
- 8.6. Accessory uses common to the above uses.

~~D. Exceptions The uses listed in .7022(B) and (C) do not include a corrections center, halfway house or rehabilitation facility.~~

~~E. Pre-existing Uses A use listed in MCC .7022(B) or (C) which occupied public school building space on August 19, 1982, shall be deemed to have satisfied the provisions of this section.~~

~~F. Action on Minor Uses Action on a proposal to locate a use listed in MCC .7022(B) shall be taken by the school district board.~~

- ~~1. The proposal shall be considered at a regular school board meeting and again at a public hearing called by the school board for the purpose.~~
- ~~2. Notice of the meetings and purpose shall be given by the school board by first class mail at least 15 days in advance of each meeting to each owner of property within 250 feet of the school site, and to such other persons or groups as have requested notice on such matters.~~

~~3. The school board shall conduct the public hearing generally in accordance with the Rules of Procedure adopted by the Approval Authority under MCC .8125(A).~~

~~4. The decision and the statement of findings of fact and conclusions adopted by the school board at the public hearing shall be filed with the Planning Director within ten days of the action.~~

~~G. Action on Other Uses Action on a proposal to locate a use listed in MCC .7022(C) shall be taken under the provisions of MCC .8205 through .8285, modified to substitute School District Board for Approval Authority or Planning Commission, and further modified as follows:~~

~~1. An action may only be initiated by the school district board under MCC .8210(A).~~

~~2. The school district board shall:~~

~~a. Act to give notice of public hearing under MCC .8220;~~

~~b. Conduct the required hearing(s) under MCC .8230;~~

~~c. Make findings of fact and conclusions under MCC .8235;~~

~~d. Make decisions under MCC .8240;~~

~~e. Maintain proceeding records under MCC .8245; and~~

~~3. The school district board shall file the written decision in accordance with MCC .8240. The Planning Director and the Clerk of the Board shall follow the requirements of MCC .8255.~~

~~4. The decision of the school district board shall become final on the tenth business day following submittal to the Clerk of the Board of County Commissioners unless the Board of County Commissioners orders review under MCC .8265.~~

~~5. Exception At the option of the school district board, action proceedings may be taken by the Approval Authority.~~

~~H.D.~~ Approval Criteria In approving an alternative use listed in .7022(B) or (C), the approval authority shall find:

1. The approval criteria of MCC .7015 are satisfied; and

2. The use will occupy existing public school building space which is surplus to the current or anticipated need for school purposes; and

3. The use;

~~a.~~ Will provide an appropriate public facility or public non-profit service to the immediate area ~~of or~~ community; or

~~4.b.~~ The use is consistent with ~~urban-rural~~ area needs in a location and under circumstances reasonably suitable for the purpose; and

~~5.4.~~ There are safe, convenient and reasonably suitable means of pedestrian, bicycle and vehicle access to and circulation on the site; and

~~6.5.~~ The applicable development standards of this Chapter are met or can be satisfied through appropriate conditions of approval.

~~I. Approval Conditions - The approval authority may impose approval limitations or conditions as listed in MCC 7010(E). [Amended 1982, Ord. 329 § 4]~~

**Section 3. Policy 38A of the Comprehensive Framework Plan is amended as follows:**

**POLICY 38A. ALTERNATIVE USES OF PUBLIC SCHOOL BUILDINGS**

The County's policy is to facilitate the location of alternative use of existing school building space where:

- A. The school district board finds that the space is surplus to current or anticipated need for school purposes; and
- B. Citizens of the community are afforded opportunity to be involved during decisions on an alternative use proposal; and
- C. Location of an alternative use will provide:
  1. ~~an~~ An appropriate public facility, or
  2. A public non-profit service to the immediate area or community; ~~or~~
  3. ~~D. The~~ An alternative use that is consistent with ~~urban~~ the area needs in a location and under circumstances reasonably suitable for the purpose.

This policy shall not affect the authority of a school district board to reduce occupancy, vacate or dispose of any existing public school building.

**STRATEGIES**

1. The County should assist school districts, community groups and citizens in the cooperative planning and development of programs for the appropriate alternative use of existing public school buildings.
2. The Zoning Ordinance should include measures for the expeditious implementation of this policy by including additional alternative uses of public school buildings in the list of allowed Community Service Uses, with primary decisions on alternative use made thereunder by the school district board. Alternative uses shall be allowed in rural areas only in "exception" zoning districts.

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**PART II - Amending MCC Chapters 33-36, 38 and 11.45 To Alter Lot Of Record Provisions To Correct Unlawfully Divided Parcels And Easement Placement During Land Divisions**

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**Section 4. MCC §§ 33.0005, 34.0005, 35.0005 and 36.0005 are amended as follows:**

**33.0005 Definitions.**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.



\* \* \*

**Lot** – A unit of land created by a subdivision of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a lot, parcel (result of partitioning), unit of land (lawfully created by deed or land sale contract) or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

\* \* \*

**Parcel** – A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, Parcel and Lot may at times be used interchangeably. The term, Parcel, also includes a unit of land (lawfully created by deed or land sale contract).

\* \* \*

**Unit of Land** – A unit of land created by a deed or land sales contract in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations.

\* \* \*

#### **34.0005 Definitions**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\* \* \*

**Lot** – A unit of land created by a subdivision of land, see definition in MCC 34.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a lot, parcel (result of partitioning), unit of land (lawfully created by deed or land sale contract) or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

\* \* \*

**Parcel** – A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, Parcel and Lot may at times be used interchangeably. The term, Parcel, also includes a unit of land (lawfully created by deed or land sale contract).

\* \* \*

**Unit of Land** – A unit of land created by a deed or land sales contract in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations.

\* \* \*

#### **35.0005 Definitions**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\* \* \*

**Lot** – A unit of land created by a subdivision of land, see definition in MCC 35.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a lot, parcel (result of partitioning), unit of land (lawfully created by deed or land sale contract) or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

\* \* \*

**Parcel** – A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, Parcel and Lot may at times be used interchangeably. The term, Parcel, also includes a unit of land (lawfully created by deed or land sale contract).

\* \* \*

**Unit of Land** – A unit of land created by a deed or land sales contract in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations.

\* \* \*

### **36.0005 Definitions**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\* \* \*

**Lot** - A unit of land created by a subdivision of land, see definition in MCC 36.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a lot, parcel (result of partitioning), unit of land (lawfully created by deed or land sale contract) or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

\* \* \*

**Parcel** – A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, Parcel and Lot may at times be used interchangeably. The term, Parcel, also includes a unit of land (lawfully created by deed or land sale contract).

\* \* \*

**Unit of Land** – A unit of land created by a deed or land sales contract in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations.

\* \* \*

**Section 5. MCC Lot of Record §§ 36.2075(E), 33.2075(E), 33.2275(E), 35.2075(E), 35.2275(E), 33.2475(E), 33.2675(E), 34.2675(E), 35.2675(E), 36.2675(E), 33.2870(E), 34.2870(E), 35.2870(E), 36.2870(E), 33.3170(E), 34.3170(E), 35.3170(E), 36.3170(E), 33.3370(E), 34.3370(E), 35.3370(E), 36.3370(E), 36.3470(E), 36.3570(E) are deleted as follows:**

~~(E) Issuance of building permit as verification of a Lot of Record.~~

~~(1) The issuance of a building permit described in this subsection for new development on a lot or parcel is considered verification of compliance with applicable zoning and land division regulations for the creation of a lawful lot or parcel. The lot or parcel described in the building permit is considered a Lot of Record if the building permit was issued prior to July 1, 1986 (date of intergovernmental agreement contracting for building permit services with other jurisdictions) and complies with all of the following:~~

~~(a) There is a copy of the building permit in the Multnomah County or City of Portland permit records and the building permit indicates that the proposed development complied with zoning and land division requirements; and~~

~~(b) The building permit was for a new principle use, such as a new dwelling, commercial, industrial, community service, or conditional use; and~~

~~(c) There is a clear property description on the permit for the property for which the building or placement permit was issued. The description may be confirmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time.~~

~~(2) A request for verification that a lot or parcel is a Lot of Record under the provisions of this section (E) may be submitted to the Planning Director. A decision by the Planning Director is a ministerial action based upon the evidence described in this section. An appeal of the director's decision for verification of a Lot of Record shall be submitted under the provisions of MCC 37.0740.~~

**Section 6. MCC §§ 33.7785, 34.7785, 35.7785 and 36.7785, Creation of Lots and Parcels That Were Unlawfully Divided, are amended as follows:**

~~ORS 92.177 authorizes the County to approve an application to create new legal lots or parcels notwithstanding that less than all of the owners of the existing legal lot or parcel have applied for the approval. This Code section provides the mechanism to review and, based upon findings of compliance with specific approval criteria, to approve certain unlawfully divided lots or parcels. The review mechanism to correct an unlawfully divided unit of land differs according to the date the unlawful lot or parcel was divided as provided in (A) and (B) below, or under (C) if a land use permit was issued for a primary use. For the purposes of this section, an "unlawfully divided" lot or parcel means a lot or parcel that, when divided, did not satisfy all applicable zoning and land division laws.~~

~~(A) An application to create a legal lot or parcel from an unlawfully divided unit of land that was unlawfully divided before January 27, 1994 (eff. date of Mult. Co. Ord. 781) shall be a Category 4 Land Division and be reviewed as a Type II permit process. In addition to the applicable Category 4 Land Division requirements, the application shall satisfy the following approval criteria:~~

~~(1) The lot or parcel either:~~

~~(a) Conforms to current dimensional, access and area standards,~~

(b) Conforms to the dimensional, access and density standards in effect when the lot or parcel was unlawfully divided, or

(c) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property and the applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are as follows:

1. The Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before January 27, 1994;

2. The Multiple Use Forest-20 (MUF-20) zoning district on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before August 14, 1980 (eff. date of Mult. Co. Ord. 236); and

3. The Multiple Use Forest-19 (MUF-19) and Multiple Use Forest-38 (MUF-38) zoning districts on or after August 14, 1980 (eff. date of Mult. Co. Ord. 236) and before January 7, 1993 (eff. date of Mult. Co. Ord. 743).

~~(2) No subsequent division of the lot or parcel or a property line adjustment has occurred.~~

~~(32) The owner or applicant demonstrates that the resulting lot or parcel can physically accommodate a use allowed in the zone, including necessary facilities and utilities, in compliance with all applicable siting standards of this zoning code chapter.~~

~~(43) Practical physical access to the site currently exists from a public road or can be provided through an irrevocable easement or equivalent means. Practical physical access at a minimum must meet the standards of MCC 29.012 and allow emergency vehicle access to the building site.~~

~~(54) The application shall include a tentative plan consisting of maps, written information and supplementary material adequate to provide the information required for a Category 4 land division and, if found to comply with the applicable approval criteria, a partition plat or subdivision plat shall be submitted in accordance with the requirements of ORS Chapter 92.~~

(B) An application to create legal lots or parcels from an unlawfully divided unit of land that were unlawfully divided on or after January 27, 1994 (effective date of Mult. Co. Ord. 781) to January 1, 2007, shall be subject to current review procedures for a land division. The application shall satisfy the following approval criteria:

(1) The lot or parcel conforms to current zoning requirements, or

(2) An unlawfully divided lot or parcel may be approved notwithstanding the required dimensional, access, and area requirements, subject to the following:

(a) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property; and

(b) The applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are the Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20)

zoning districts on or after January 27, 1994 (eff. date of Mult. Co. Ord. 781) and before October 4, 2000 (eff. date of "Rural Residential" amendments to OAR 660-004-0040).

(C) If an application for a legal lot or parcel is approved under this subsection, the date of creation of the lots and parcels shall be the date the Partition or Subdivision Plat is recorded. A lot legalization application to create a lot or parcel may be made through a Type I application process when the County issued a land use permit prior to January 1, 2007 for a dwelling or other building on an unlawfully established unit of land, provided the following criteria are met:

(1) The land use permit was issued after the sale of the unlawfully established unit of land to a new property owner; and

(2) There is a clear property description on the permit for the unlawfully established unit of land for which the building or placement permit was issued. The description may be confirmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time; and

(3) The land use permit was for a building for a new principle use, such as a new dwelling, commercial, industrial, community service, or conditional use; and

(4) There is a copy of the land use permit in the records of Multnomah County or its authorized agents and the land use permit indicates that the proposed development on the unlawfully established unit of land complied with zoning and land division requirements; and

(5) If the approved land use permit was for a dwelling, the building currently qualifies as a habitable dwelling as defined in this chapter; and

(6) The building was constructed under a valid building permit and the building remains on the unlawfully established unit of land described in (2) above.

(a) A County building permit was issued at the time and does not include plumbing, mechanical, electrical or other type of trade permit. An exempt farm structure approval is not a building permit.

(D) Within 90 days of a final decision being approved under (A), (B) or (C) of this section, the property owner(s) shall record a partition plat or subdivision plat, as appropriate, in accordance with the requirements of ORS Chapter 92.

(E) If an application to legalize a unit of land is approved under (A), (B) or (C) of this section, the date of creation of the legalized parcel or lot shall be the date the partition or subdivision plat is recorded.

(F) Development of a parcel or lot approved pursuant to this section shall be subject to the laws in effect at the time of the development application pursuant to ORS 215.427(3)(a). No retroactive use of land use laws is authorized by this code provision once the parcel or lot is lawfully created.

(G) From January 5, 1966 to December 31, 2000, the County's zoning ordinance specified that in cases where a building permit is required under the Multnomah County Building Code, such building permit shall be deemed to be a land use permit. When reviewing a lot legalization application under (C) above, building permits during this time period shall constitute a land use permit.

(H) The following do not qualify to legalize a lot or parcel under this code section:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

- (2) An area of land created by the foreclosure of a security interest;
- (3) A mortgage lot.
- (4) An area of land created by court decree.

**Section 7. MCC § 11.15.0010 is amended as follows:**

**§ 11.15.0010 Definitions.**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\* \* \*

**Habitable Dwelling – An existing dwelling that:**

- (a) Has intact exterior walls and roof structure;
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (c) Has interior wiring for interior lights;
- (d) Has a heating system; and
- (e) Was lawfully established.

\* \* \*

**Lot** - A plot, parcel or ~~area-unit~~ of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

\* \* \*

**Lot of Record** – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, unit of land or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 11.45.117. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

- (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.
- (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:
  - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
  - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

\* \* \*

**Section 8. MCC Chapter 11.45 is amended to add a new section as follows:**

**§ 11.45.117 Creation Of Lots And Parcels That Were Unlawfully Divided.**

This Code section provides the mechanism to review and, based upon findings of compliance with specific approval criteria, to approve certain unlawfully divided lots or parcels. The review mechanism to correct an unlawfully divided unit of land differs according to the date the unlawful lot or parcel was divided as provided in (A) and (B) below, or under (C) if a land use permit was issued for a primary use. For the purposes of this section, an “unlawfully divided” lot or parcel means a lot or parcel that, when divided, did not satisfy all applicable zoning and land division laws.

(A) An application to create a legal lot or parcel from an unlawfully divided unit of land divided before January 27, 1994 (eff. date of Mult. Co. Ord. 781) shall be a Category 4 Land Division and be reviewed as a Type II process. In addition to the applicable Category 4 Land Division requirements, the application shall satisfy the following approval criteria:

(1) The lot or parcel either:

- (a) Conforms to current dimensional, access and area standards,
- (b) Conforms to the dimensional, access and density standards in effect when the lot or parcel was unlawfully divided, or
- (c) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property and the applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are as follows:

1. The Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before January 27, 1994;

2. The Multiple Use Forest-20 (MUF-20) zoning district on or after October 6, 1977 (eff. date of Mult. Co. Ord. 148) and before August 14, 1980 (eff. date of Mult. Co. Ord. 236); and

3. The Multiple Use Forest-19 (MUF-19) and Multiple Use Forest-38 (MUF-38) zoning districts on or after August 14, 1980 (eff. date of Mult. Co. Ord. 236) and before January 7, 1993 (eff. date of Mult. Co. Ord. 743).

(2) The owner or applicant demonstrates that the resulting lot or parcel can physically accommodate a use allowed in the zone, including necessary facilities and utilities, in

compliance with all applicable siting standards of this zoning code chapter.

(3) Practical physical access to the site currently exists from a public road or can be provided through an irrevocable easement or equivalent means. Practical physical access at a minimum must meet the standards of MCC 29.012 and allow emergency vehicle access to the building site.

(4) The application shall include a tentative plan consisting of maps, written information and supplementary material adequate to provide the information required for a Category 4 land division.

(B) An application to create a legal lots or parcels from an unlawfully divided unit of land divided on or after January 27, 1994 (effective date of Mult. Co. Ord. 781) to January 1, 2007 shall be subject to current review procedures for a land division. The application shall satisfy the following approval criteria:

(1) The lot or parcel conforms to current zoning requirements, or

(2) An unlawfully divided lot or parcel may be approved notwithstanding the required dimensional, access, and area requirements, subject to the following:

(a) The lot or parcel has a property line that is contiguous to a road, street or zone boundary that intersected the property; and

(b) The applicable zoning district on the date the lot or parcel was unlawfully divided allowed a land division when a County-maintained road, street or zoning district boundary intersects a parcel of land. The zoning districts and effective dates that apply to this provision are the Rural Center (RC), Rural Residential (RR), and Multiple Use Agriculture-20 (MUA-20) zoning districts on or after January 27, 1994 (eff. date of Mult. Co. Ord. 781) and before October 4, 2000 (eff. date of "Rural Residential" amendments to OAR 660-004-0040).

(C) A Lot Legalization application to create a lot or parcel may be made through a Type I application process when the County issued a land use permit prior to January 1, 2007 for a dwelling or other building on an unlawfully established unit of land, provided the following criteria are met:

(1) The land use permit was issued after the sale of the unlawfully established unit of land to a new property owner; and

(2) There is a clear property description on the permit for the unlawfully established unit of land for which the building or placement permit was issued. The description may be confirmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time; and

(3) The land use permit was for a building associated with a new principle use, such as a new dwelling, commercial, industrial, community service, or conditional use; and

(4) There is a copy of the land use permit in the records of Multnomah County or its authorized agent's and the land use permit indicates that the proposed development on the unlawfully established unit of land complied with zoning and land division requirements; and

(5) If the approved land use permit was for a dwelling, the building currently qualifies as a habitable dwelling as defined in MCC Chapter 11.15; and

(6) The building was constructed under a valid building permit and the building remains on the unlawfully established unit of land described in (2) above.

(a) A County building permit was issued at the time and does not include plumbing, mechanical, electrical or other type of trade permit. An Exempt Farm Structure



approval is not a building permit.

(D) Within 90 days of a final decision being approved under (A), (B) or (C) of this section, the property owner(s) shall record a partition plat or subdivision plat, as appropriate, in accordance with the requirements of ORS Chapter 92.

(E) If an application to legalize a unit of land is approved under (A), (B) or (C) of this section, the date of creation of the legalized parcel or lot shall be the date the partition or subdivision plat is recorded.

(F) Development of a parcel or lot approved pursuant to this section shall be subject to the laws in effect at the time of the development application pursuant to ORS 215.427(3)(a). No retroactive use of land use laws is authorized by this code provision once the parcel or lot is lawfully created.

(G) From January 5, 1966 to December 31, 2000, the County's zoning ordinance specified that in cases where a building permit is required under the Multnomah County Building Code, such building permit shall be deemed to be a land use permit. When reviewing a Lot Legalization application under (C) above, building permits during this time period shall constitute a land use permit.

(H) The following do not qualify to legalize a lot or parcel under this code section:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;
- (2) An area of land created by the foreclosure of a security interest;
- (3) A Mortgage Lot.
- (4) An area of land created by court decree.

**Section 9. MCC §§ 33.7705, 34.7705, 35.7705, 36.7705 and 11.45.010, Definitions, are amended as follows:**

\* \* \*

(J) **Partition land** means to divide an area or tract of land into ~~two or~~ not more than three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partition land does not include:

\* \* \*

**Utility Easement** means an easement for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, power, heat or telecommunications to the public.

**Section 10. MCC §§ 33.7935, 34.7935, 35.7935, 36.7935, 38.7935 and 11.45.550, Easements, are amended as follows:**

Easements shall be provided and designed according to the following:

(A) ~~Easements for utilities and storm or sanitary sewers may be required where appropriate to serve abutting lots or parcels. Such easements shall be not less than 10 feet in width, centered on side or rear property lines or five feet in width along front property lines. Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.~~

\* \* \*

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### **PART III - Amending MCC Chapter 37 Relating To Land Use Permit Processing Timelines**

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#### **Section 11. MCC § 37.0600 is amended as follows:**

##### **37.0600 Completeness Review And 150-Day Rule.**

\* \* \*

(B) Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days from the original application submittal date within which to submit the missing information or the application shall be ~~rejected-void~~ and all materials returned to the applicant. If the applicant submits the requested information within the 180 day period, the Planning Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection (A) of this section.

\* \* \*

(D) Once the Planning Director determines the application is complete, or the applicant refuses to submit any more information, the County shall declare the application complete and take final action on the application within 150 days of that date unless the applicant waives or extends the 150-day period. The 150-day period, however, does not apply in the following situations:

(1) Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 150-day period.

(2) The 150-day period shall be replaced with a 120-day period on all lands within an Urban Growth Boundary or applications involving mineral extraction.

(3) The 150-day period does not apply to any application for an amendment to the County's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.

(4) The 150 day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(5) The 120-day period on all lands within an Urban Growth Boundary or for applications involving mineral extraction may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(E) The approval criteria and standards which control the County's review and decision on a complete application are those which were in effect on the date the application was first submitted.

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**PART IV - Amending MCC Chapters 33-36 To Include Biofuel Facilities and Allow Creation Of  
Lots Below Minimum Lot Size For Public Parks Or Conservation**

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**Section 12. MCC §§ 33.2610, 34.2610, 35.2610 and 36.2610, Definitions, are amended as follows:**

\* \* \*

Area: As used in ORS 215.203 for the production of biofuel, “area” is limited to Clark and Skamania counties in Washington State, Multnomah, Columbia, Washington, Clackamas, Yamhill, Hood River and Marion counties in Oregon.

\* \* \*

**Section 13. MCC §§33.2625, 34.2625, 35.2625 and 36.2625, Review Uses, are amended as follows:**

**33.2625 Review Uses**

\* \* \*

(N) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.2660(C), (D) & (E) (yards), and MCC 33.7450 (signs).

\* \* \*

**34.2625 Review Uses**

\* \* \*

(N) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 34.4100 through MCC 34.4215 (off-street parking), MCC 34.2660(C), (D) & (E) (yards), and MCC 34.7450 (signs).

\* \* \*

**35.2625 Review Uses**

\* \* \*

(N) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the

facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with the requirements of MCC 35.4100 through MCC 35.4215 (off-street parking), MCC 35.2660(C), (D) & (E) (yards), and MCC 35.7450 (signs).

\* \* \*

### **36.2625 Review Uses.**

\* \* \*

(N) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. The siting standards are the requirements of MCC 36.4100 through MCC 36.4215 (off-street parking), MCC 36.2660(C), (D) & (E) (yards), and MCC 36.7450 (signs).

\* \* \*

### **Section 14. MCC §§ 33.2065, 33.2265, 33.2465, 35.2265 and 36.2065, Lots of Exception, are amended as follows:**

\* \* \*

#### **(D) Land Divisions for Park and Open Space.**

(1) The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a non-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel;  
or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

(DE) A landowner allowed a land division under this section shall sign a statement that shall be recorded with the Multnomah County Recorder, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

FIRST READING:

May 22, 2008

SECOND READING AND ADOPTION:

May 29, 2008

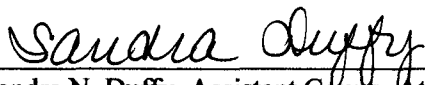


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
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