



**Multnomah County Oregon**

## **Board of Commissioners & Agenda**

*connecting citizens with information and services*

### **BOARD OF COMMISSIONERS**

#### **Diane Linn, Chair**

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Portland, Or 97214

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### **MAY 4 & 6, 2004 REV**

### **BOARD MEETINGS**

### **FASTLOOK AGENDA ITEMS OF INTEREST**

Pg 2	9:30 a.m. Tuesday Executive Session
Pg 2	10:00 a.m. Tuesday Briefing on Adult and Children Mental Health and A&D Treatment
Pg 3	9:30 a.m. Thursday Opportunity for Public Comment on Non-Agenda Matters
Pg 3	9:30 a.m. Thursday Chair's Executive Budget Message; Public Hearing and Resolution
Pg 3	10:00 a.m. Thursday Proclaiming May 2004 Older Americans Month in Multnomah County
Pg 3	10:30 a.m. Thursday Hearing on 2004-05 CDBG Program Plan and Annual Action Plan
Pg 3-4	10:40 a.m. Thursday Readings and Vote on Nine (9) Land Use Planning Ordinances
Pg 5	2004-05 Budget Work Sessions/Hearings

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or: <http://www.mctv.org>

Tuesday, May 4, 2004 - 9:30 AM  
Multnomah Building, Sixth Floor Commissioners Conference Room 635  
501 SE Hawthorne Boulevard, Portland

## **EXECUTIVE SESSION**

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h). Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session. No Final Decision will be made in the Executive Session. Presented by Agnes Sowle. 30 MINUTES REQUESTED.
- 

Tuesday, May 4, 2004 - 10:00 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **BOARD BRIEFING**

- B-1 Adult and Children Mental Health and Alcohol and Drug Treatment. Presented by Patricia K. Pate, DCHS Director; Lillian Shirley, Health Department Director; Joanne Fuller, DCJ Director; Derald Walker, MHASD Director; Mark Spofford, Health Services Administrator; and Kathleen Treb, DCJ Assistant Director. 2 HOURS REQUESTED.
- 

Thursday, May 6, 2004 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM**

### **DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES**

- C-1 Budget Modification DCS 04-05 Increasing Mail Distribution Postage Appropriation due to Unbudgeted Expenditures from ITAX Mailings to Citizens

**REGULAR AGENDA - 9:30 AM**  
**PUBLIC COMMENT - 9:30 AM**

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

**NON-DEPARTMENTAL - 9:30 AM**

UC-1 RESOLUTION Setting a Public Hearing and Directing Notice for Consideration of Boundaries for Willamette Electric People's Utility District

R-1 Chair's 2004-2005 Executive Budget Message, Followed by PUBLIC HEARING and Consideration of a RESOLUTION Approving the Chair's Proposed Fiscal Year 2004-2005 Budget for Submittal to the Tax Supervising and Conservation Commission as Required by ORS 294.421

R-2 PROCLAMATION Proclaiming May 2004 National Older Americans Month in Multnomah County, Oregon

R-3 Authorizing Filing of an Intervention in Consolidated Land Use Board of Appeals (LUBA) Cases

R-4 Authorizing Filing of an Amicus Brief in the Oregon Supreme Court

R-5 Authorizing Settlement of a Claim by Dan and Doris Boyd Relating to Work Done on a Cornelius Pass Road Transportation Project

R-6 RESOLUTION Authorizing Property Tax Refunds Under ORS 311.806 (2) for Appeals Pending More Than Six Years

**OFFICE OF SCHOOL AND COMMUNITY PARTNERSHIPS - 10:30 AM**

R-7 PUBLIC HEARING to Consider and Approve the 2004-2005 Consolidated Plan and Annual Action Plan for the Community Development Block Grant Program

**DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 10:40 AM**

R-8 Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC § 37.0560 with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety

- R-9 Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC § 38.0560 for the Columbia River Gorge National Scenic Area with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety
- R-10 First Reading of an ORDINANCE Amending MCC Chapter 33, Land Use Code, West Hills Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use
- R-11 First Reading of an ORDINANCE Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use
- R-12 First Reading of an ORDINANCE Amending MCC Chapter 35, Land Use Code, East of Sandy River Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use
- R-13 First Reading of an ORDINANCE Amending MCC Chapter 36, Land Use Code, West of Sandy River Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use
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- R-15 First Reading of an ORDINANCE Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, to Add Certain Transportation Land Uses, Add a Definition of "Water-Dependent Use", and Amend the Definition of "Large Fill"
- R-16 First Reading and Possible Adoption of an ORDINANCE Amending MCC Land Use Chapters 33 through 38 with Respect to Violations and Enforcement, and Declaring an Emergency



# **MULTNOMAH COUNTY 2004-2005 BUDGET WORK SESSIONS AND HEARINGS**

**(Unless otherwise noted, all sessions will be held in the Multnomah Building  
Commissioners Boardroom 100, 501 SE Hawthorne, Portland)**

Cable coverage of the May 6 through June 10, 2004 budget work sessions, hearings and Thursday Board meetings are produced through Multnomah Community Television. **The Tuesday budget work sessions will be broadcast live on cable channel 29.** Call 503-491-7636, ext. 332 for further info or log onto <http://www.mctv.org> for the program guide/playback schedule. The sessions, hearings and Board meetings are available via media streaming at [http://www.co.multnomah.or.us/cc/live\\_broadcast.shtml](http://www.co.multnomah.or.us/cc/live_broadcast.shtml). Contact Board Clerk Deb Bogstad 503-988-3277 for further information.

**Thu, May 6  
9:30 a.m.**

**Chair's 2004-2005 Executive Budget Message  
Public Hearing/Consideration of Resolution  
Approving Executive Budget for Submission to  
Tax Supervising and Conservation Commission**

**Tue, May 11  
9:00 a.m. - 12:00 p.m.**

**Financial Overview  
Central CBAC/CIC Presentation  
Non-Departmental**

**Tue, May 11  
1:00 p.m. - 4:00 p.m.**

**Budget Work Session  
Health  
Department of County Human Services  
Office of School and Community Partnerships**

**Tue, May 11  
6:00 p.m. - 8:00 p.m.**

**Public Hearing on the 2004-2005 Multnomah  
County Budget - North Portland Library  
Conference Room, 512 N Killingsworth, Portland**

**Thu, May 13  
9:30 a.m.**

**Public Hearing/Consideration of Approval of the  
2004-2005 Dunthorpe Riverdale Sanitary Service  
District No. 1 and the 2004-2005 Mid County Street  
Lighting Service District No. 14 Proposed Budgets  
for Submittal to Tax Supervising and  
Conservation Commission  
Multnomah County Personal Income Tax Update**

# **MULTNOMAH COUNTY 2004-2005 BUDGET WORK SESSIONS AND HEARINGS**

**(Unless otherwise noted, all sessions will be held in the Multnomah Building  
Commissioners Boardroom 100, 501 SE Hawthorne, Portland)**

**Tue, May 18  
9:00 a.m. - 12:00 p.m.**

**Budget Work Session  
Department of Community Justice  
District Attorney  
Sheriff's Office**

**Tue, May 18  
1:30 p.m. - 5:00 p.m.**

**Budget Work Session  
Library  
Business Services  
Community Services  
Finance, Budget, Assessment and Taxation**

**Thu, May 20  
9:30 a.m.**

**Public Hearing and Resolution Adopting the 2004-  
2005 Mt. Hood Cable Regulatory Commission  
Budget**

**Tue, May 25  
9:00 a.m. - 12:00 p.m.**

**Budget Work Session  
Amendments**

**Tue, May 25  
1:30 p.m. - 4:00 p.m.**

**Budget Work Session - if Needed  
Amendments**

**Tue, May 25  
6:00 p.m. - 8:00 p.m.**

**Public Hearing on the 2004-2005 Multnomah  
County Budget - Multnomah County East  
Building, Sharron Kelley Conference Room, 600  
NE 8th, Gresham**

**Tue, June 1  
9:00 a.m. - 12:00 p.m.**

**Budget Work Session  
Amendments**

# **MULTNOMAH COUNTY 2004-2005 BUDGET WORK SESSIONS AND HEARINGS**

**(Unless otherwise noted, all sessions will be held in the Multnomah Building  
Commissioners Boardroom 100, 501 SE Hawthorne, Portland)**

**Tue, June 1**

**1:30 p.m. - 4:00 p.m.**

**Budget Work Session - if Needed  
Amendments**

**Tue, June 1**

**6:00 p.m. - 8:00 p.m.**

**Public Hearing on the 2004-2005 Multnomah  
County Budget - Multnomah Building,  
Commissioners Boardroom 100, 501 SE  
Hawthorne, Portland**

**Tue, June 8**

**9:00 a.m. - 12:00 p.m.**

**Budget Work Session  
Amendments**

**Tue, June 8**

**1:30 p.m. - 5:00 p.m.**

**Budget Work Session - if Needed  
Amendments**

**Wed, June 9**

**9:00 a.m. - 10:15 a.m.**

**Budget Work Session  
Amendments**

**Wed, June 9**

**10:30 a.m. - 11:30 a.m.**

**Tax Supervising and Conservation Commission  
Public Hearings on the Multnomah County 2002-  
2003 Supplemental Budget; and the 2004-2005  
Budget - Multnomah Building, Commissioners  
Boardroom 100, 501 SE Hawthorne, Portland**

**Wed, June 9**

**1:30 p.m. - 5:00 p.m.**

**Budget Work Session - if Needed  
Amendments**

# **MULTNOMAH COUNTY 2004-2005 BUDGET WORK SESSIONS AND HEARINGS**

**(Unless otherwise noted, all sessions will be held in the Multnomah Building  
Commissioners Boardroom 100, 501 SE Hawthorne, Portland)**

**Thu, June 10  
9:30 a.m.**

**Public Hearing and Resolution Adopting the 2004-  
2005 Budget for Multnomah County Pursuant to  
ORS 294**

**Public Hearing and Resolution Adopting the 2004-  
2005 Budget for Dunthorpe Riverdale Sanitary  
Service District No. 1**

**Public Hearing and Resolution Adopting the 2004-  
2005 Budget for Mid County Street Lighting  
Service District No. 14 and Making Appropriations**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMTION NO. 04-055**

Proclaiming May 2004 National Older Americans Month in Multnomah County, Oregon

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

- a. May 2004 is National Older Americans Month.
- b. The theme for this year of "Aging Well, Living Well" celebrates and recognizes the growing number of older Americans who are living longer, healthier, and more productive lives.
- c. In the forty-one years since the inception of Older Americans Month, the elder population of the United States has grown to include a larger number of adults living into their 80s and 90s. Today, one in six Americans, 44 million people, is 60 years of age or older. Four million of these are 85 years of age or older. By the year 2030, one in five Americans will be over 65 and the number of those over 85 will have tripled.
- d. The basic principle that older adults are entitled to spend their retirement years in good health living with independence and dignity is at the core of our nation and county's system of home and community-based care.
- e. Today, Multnomah County enjoys an elder population approaching 100,000, with 10% of this population over 85 years of age. In the last decade Multnomah County's over 85 population has increased by 18%.
- f. Seniors in Multnomah County benefit from partnerships among senior centers, Loaves and Fishes, Multi-Ethnic Action Committee, Elders in Action, and many community organizations based throughout the greater metropolitan area, striving to promote healthy lifestyles and ensure that all our citizens live long and age well.
- g. Seniors in Multnomah County have access to a wide range of services including health insurance counseling; senior center activities; respite and adult day services; in-home assistance and personal care services; nutrition counseling and meals-on-wheels; energy, housing and legal assistance; and elder abuse prevention and ombudsmen programs.
- h. The fact that older Americans are enjoying increased health and longevity is without a doubt something to celebrate. We are proud of our commitment to fostering quality of life and well being for our honored citizens.

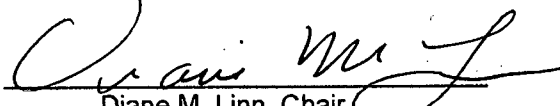
**The Multnomah County Board of Commissioners Proclaims:**

The month of May 2004 is National Older Americans Month in Multnomah County, Oregon. We urge community and government leaders, policy makers, business people, educators, volunteers, and all citizens of Multnomah County to celebrate our older citizens and support all aspects of "Aging Well and Living Well."

ADOPTED this 6th day of May, 2004.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair



**Multnomah County Oregon**

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**MAY 4 & 6, 2004**

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Thursday, May 6, 2004 - 9:30 AM  
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## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM**

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- C-1 Budget Modification DCS 04-05 Increasing Mail Distribution Postage Appropriation due to Unbudgeted Expenditures from ITAX Mailings to Citizens

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**PUBLIC COMMENT - 9:30 AM**

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**OFFICE OF SCHOOL AND COMMUNITY PARTNERSHIPS - 10:30 AM**

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Area with Respect to Issuing Permits and Allowing Issuance of a Permit  
When Necessary to Protect Public Safety

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- R-16 First Reading and Possible Adoption of an ORDINANCE Amending MCC Land Use Chapters 33 through 38 with Respect to Violations and Enforcement, and Declaring an Emergency



## **Diane Linn, Multnomah County Chair**

Suite 600, Multnomah Building  
501 SE Hawthorne Boulevard  
Portland, Oregon 97214-3587  
Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

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### **MEMORANDUM**

**TO:** Commissioner Maria Rojo de Steffey  
Commissioner Serena Cruz  
Commissioner Lisa Naito  
Commissioner Lonnie Roberts  
Board Clerk Deb Bogstad

**FROM:** Delma Farrell  
Administrative Director

**DATE:** May 5, 2004

**RE:** Board Briefing/Meeting Excused Absences

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Unless business at the Regular Board Meeting on Thursday May 6, 2004 concludes by 10:45 am, Chair Linn may have to leave the meeting prior to adjournment.

## AGENDA PLACEMENT REQUEST

**BUD MOD #: BCS 04-05**

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-1 DATE 05-06-04  
DEBORAH L. BOGSTAD, BOARD CLERK

### Board Clerk Use Only:

Meeting Date: May 6, 2004  
Agenda Item #: C-1  
Est. Start Time: 9:30 AM  
Date Submitted: 04/12/04

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**Requested Date:** 05-06-04

**Time Requested:** N/A

**Department:** Business and Community  
Services

**Division:** FREDS

**Contact/s:** Sammuuel Konadu

**Phone:** 503 988-5256

**Ext.:** 85256

**I/O Address:** 503/4

**Presenters:** Consent Calendar

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**Agenda Title:** Budget Modification DCS 04-05 Increasing Mail Distribution Postage  
Appropriation due to Unbudgeted Expenditures from ITAX Mailings to Citizens

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.

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**1. What action are you requesting from the Board? What is the department/agency recommendation?**

BCC consent approval of FY 2004 Budget Modification increasing Mail Distribution Postage appropriation due to unbudgeted expenditures from ITAX mailings to citizens

Approval of Budget Modification request of \$300,000, for incurred and anticipated postage expenditures.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

When the budget for ITAX administration was adopted, the funds were budgeted mostly in professional services. This Budget Modification represents a Service Reimbursement from ITAX Admin, to FREDS- Mail Distribution in the amount of \$300,000, for postage on bulk mailings and signature graphics to over 45,000 County employers and 313,000 residents. The mailings contained general information about the County personal income tax as part of the County's continuing effort to encourage employers to withhold taxes. It

also included answers to common questions, basic instructions on how to set up withholding, and a quarterly payment form.

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

In the current year this Budget Modification would shift appropriate funds from ITAX resources to compensate FREDS- Mail Distribution for postage costs incurred to cover bulk mailings to County employers and residents. Future mailing costs resulting from ongoing ITAX operations will be accrued, assessed and payable in the year incurred.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
  - ❖ FREDS -Mail Distribution Revenue (50310) will change to reflect receipt of transferred funds from ITAX, which will compensate it for bulk mailing postage costs.
  - ❖ **What budgets are increased/decreased?**
  - ❖ The budget for FREDS – Mail Distribution (CC#904400) will increase by \$300,000 for ITAX mailing expenditures. Additionally, ITAX DBCS Fin Admin will show an increase in its distribution budget with a corresponding reduction in Professional Services to balance its budget appropriation.
  - ❖ **What do the changes accomplish?**
  - ❖ The changes will ensure that the Distribution Fund does not overspend its appropriation.
  - ❖ **Do any personnel actions result from this budget modification? Explain.**  
None
  - ❖ **Is the revenue one-time-only in nature?**
  - ❖ No
  - ❖ **If a grant, what period does the grant cover?**
  - ❖ **When the grant expires, what are funding plans?**
- NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**

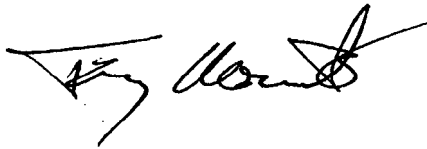
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved.  
None.

5. Explain any citizen and/or other government participation that has or will take place.  
None.

**Required Signatures:**

Department/Agency Director: \_\_\_\_\_



Date: 04/08/04

Budget Analyst

By: \_\_\_\_\_



Date: 04/12/04

Dept/Countywide HR

By: \_\_\_\_\_

Date:

**BUDGET MODIFICATION: #**  
**EXPENDITURES & REVENUES**

Please show an increase in revenue as a negative value and a decrease as a positive value for consistency with MERLIN.

Budget Fiscal Year: 03/04

Line No.	Fund Center	Fund Code	Accounting Unit		Cost Element	Current Amount	Revised Amount	Change Increase/ (Decrease)	Subtotal	Description
			Internal Order	Cost Center						
1	70-05	1000			ITAX.DBCS.FINADMIN	60460	\$ -	\$ 300,000	\$ 300,000	Increase Mail Distribution
2	70-05	1000			ITAX.DBCS.FINADMIN	60170	\$ 6,519,161	\$ 6,219,161	\$ (300,000)	Decrease Prof Svcs
3	90-40	3504		904400		50310	\$ (1,477,554)	\$ (1,777,554)	\$ (300,000)	Increase Service Reimb Revenue
4	90-40	3504		904400		60230	\$ 776,108	\$ 1,076,108	\$ 300,000	Increase Postage
5							\$ -			
6							\$ -			
7							\$ -			
8							\$ -			
9							\$ -			
10							\$ -			
11							\$ -			
12							0			
13							0			
14							0			
15							0			
16							0			
17							0			
18							0			
19							0			
20							0			
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23							0			
24							0			
25							0			
26							0			
27							0			
28							0			
29							0			
								0	0	Total - Page 1
								0	0	GRAND TOTAL

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** UC-1

**Est. Start Time:** 9:30 AM

**Date Submitted:** 04/29/04

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**Requested Date:** Thursday, May 6, 2004

**Time Requested:** 10 minutes

**Department:** Non-Departmental

**Division:** Chair's Office

**Contact/s:** Agnes Sowle

**Phone:** (503) 988-3138

**I/O Address:** 503/500

**Presenters:** Agnes Sowle

---

**Agenda Title:** RESOLUTION Setting a Public Hearing and Directing Notice for Consideration of Boundaries for Willamette Electric People's Utility District (PUD)

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Adopt Resolution setting public hearing on Thursday, July 15 8, 2004, at 10:00 a.m., to consider boundaries for a PUD.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.** On April 26, 2004, an electors' petition was filed with the County Elections Division for formation of Willamette Electric People's Utility District. Elections certified the petition on April 27, 2004. The Board must set a hearing date to consider PUD boundaries within ten days of petition certification under ORS 261.161. This Resolution sets the required hearing date. (see attached PUD Tentative Timeline)
  3. **Explain the fiscal impact (current year and ongoing).** N/A

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

If a budget modification, explain: N/A

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: N/A

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
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- ❖ Has this request been made before? When? What was the outcome?

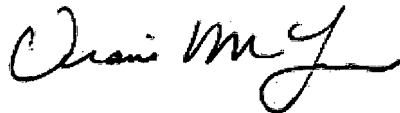
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- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues. Complies with ORS 261.161.
5. Explain any citizen and/or other government participation that has or will take place. The County will notice and hold the public hearing as specified in the resolution.

Required Signatures:

Department/Agency Director:



Date: 4/29/2004



**WILLAMETTE ELECTRIC PEOPLE'S UTILITY DISTRICT  
ORS 261  
TENTATIVE TIMELINE  
(04/26/04)**

- a. Elections has 10 days to certify petition signatures (ORS 261.131)  
***Certified Tuesday, April 27 (Kauffman)***
- b. Elections sends petition to Office of Energy (ORS 261.151)  
***Wednesday, April 28 (Kauffman)***
- c. Office holds hearing in proposed district not less than 30 days of receipt  
***Not before about Monday, May 3 (Energy Office)***
- d. Office prepares & publishes concise report within 60 days of receipt  
***By about Friday July 2 (Energy Office)***
- e. Office mails copy to Board  
***By about Friday July 2 (Energy Office)***
- f. Within 10 days of petition certification Board sets hearing date (ORS 261.161)  
***BOARD MEETING OF THURSDAY, MAY 6***
- g. Hearing must be held not less than 60 or more than 90 days after certification  
***BOARD BEGINS HEARING NOT EARLIER THAN (SATURDAY) JUNE 26 AND NOT LATER THAN (MONDAY) JULY 26***
- h. Hearing may be adjourned but must not exceed four weeks  
***BOARD HEARING ENDS NOT LATER THAN MONDAY, AUG. 23***
- i. Within 10 days of last hearing date, Board must determine boundaries  
***BOARD DECISION BY THURSDAY, SEPTEMBER 2***
- j. Board must submit district formation and special levy to electors at "earliest practical date". The special election may be at biennial primary or general election (ORS 261.171)
- k. Five PUD directors must be elected at same election as formation. All electors of proposed district have right to vote for five candidates. Five candidates receiving highest number of votes in area approved as district are elected. (ORS 261.190)
- l. If district and levy approved by voters, Board must issue proclamation. (ORS 261.200)

- m. Board pays election expenses from general fund. Board may require bond, cash deposit or other security deposit from chief petitioners as provided by ORS 198.775. General fund shall be reimbursed by assessment in territory where election held. (ORS 261.210)
- n. If the Board refuses to hold a hearing or call an election, any elector may apply within 10 days after refusal to circuit court for a writ of mandamus (ORS 261.220)

Rev'd 4/29/04

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** UC-1

**Est. Start Time:** 9:30 AM

**Date Submitted:** 04/29/04

---

**Requested Date:** Thursday, May 6, 2004

**Time Requested:** 10 minutes

**Department:** Non-Departmental

**Division:** Chair's Office

**Contact/s:** Agnes Sowle

**Phone:** (503) 988-3138

**I/O Address:** 503/500

**Presenters:** Agnes Sowle

---

**Agenda Title:** RESOLUTION Setting a Public Hearing and Directing Notice for Consideration of Boundaries for Willamette Electric People's Utility District (PUD)

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Adopt Resolution setting public hearing on Thursday, July 15, 2004, at 10:00 a.m., to consider boundaries for a PUD.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.** On April 26, 2004, an electors' petition was filed with the County Elections Division for formation of Willamette Electric People's Utility District. Elections certified the petition on April 27, 2004. The Board must set a hearing date to consider PUD boundaries within ten days of petition certification under ORS 261.161. This Resolution sets the required hearing date. (see attached PUD Tentative Timeline)
  3. **Explain the fiscal impact (current year and ongoing).** N/A

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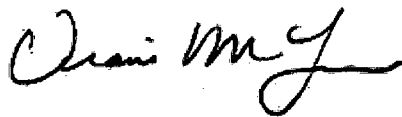
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- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues. Complies with ORS 261.161.
5. Explain any citizen and/or other government participation that has or will take place. The County will notice and hold the public hearing as specified in the resolution.

**Required Signatures:**

Department/Agency Director:



Date: 4/29/2004

**WILLAMETTE ELECTRIC PEOPLE'S UTILITY DISTRICT**  
**ORS 261**  
**TENTATIVE TIMELINE**  
**(04/26/04)**

- a. Elections has 10 days to certify petition signatures (ORS 261.131)  
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***BOARD MEETING OF THURSDAY, MAY 6***
- g. Hearing must be held not less than 60 or more than 90 days after certification  
***BOARD BEGINS HEARING NOT EARLIER THAN (SATURDAY) JUNE 26 AND NOT LATER THAN (MONDAY) JULY 26***
- h. Hearing may be adjourned but must not exceed four weeks  
***BOARD HEARING ENDS NOT LATER THAN MONDAY, AUG. 23***
- i. Within 10 days of last hearing date, Board must determine boundaries  
***BOARD DECISION BY THURSDAY, SEPTEMBER 2***
- j. Board must submit district formation and special levy to electors at "earliest practical date". The special election may be at biennial primary or general election (ORS 261.171)
- k. Five PUD directors must be elected at same election as formation. All electors of proposed district have right to vote for five candidates. Five candidates receiving highest number of votes in area approved as district are elected. (ORS 261.190)
- l. If district and levy approved by voters, Board must issue proclamation. (ORS 261.200)

- m. Board pays election expenses from general fund. Board may require bond, cash deposit or other security deposit from chief petitioners as provided by ORS 198.775. General fund shall be reimbursed by assessment in territory where election held. (ORS 261.210)
- n. If the Board refuses to hold a hearing or call an election, any elector may apply within 10 days after refusal to circuit court for a writ of mandamus (ORS 261.220)

Rev'd 4/29/04

**BOGSTAD Deborah L**

**From:** KINOSHITA Carol  
**Sent:** Thursday, April 29, 2004 2:47 PM  
**To:** SMITH Andy J  
**Cc:** BOGSTAD Deborah L; SOWLE Agnes; KAUFFMAN John  
**Subject:** Unanimous Consent Item for May 6 Board Meeting

**Importance:** High

Hi Andy!

Attached are the APR and resolution to set a public hearing on Thurs. July 15, 2004 at 10 a.m. to consider boundaries for the proposed Willamette Electric PUD. The petition was filed with Elections on Mon. 4/26 and John Kauffman certified the signatures on Tues. 4/27. We are required to set a hearing date to consider PUD boundaries within ten days of petition certification (ORS 261.161). Unfortunately, I just realized this means we have to set the hearing date at the next Board meeting in order to comply with the statute, but the agenda has already been published.

Section 6. of the Board rules provides that the Board may act on an item not on the agenda if at least three commissioners vote in favor of a motion to immediately consider the matter, and all commissioners must vote in favor of it in order for it to be adopted. I appreciate your help in having this item adopted at the next meeting and apologize for the inconvenience caused. Thanx so much!



RES\_WEPUD-Hr APR\_WEPUD-Hr  
g.doc (331 KB) j-res.doc (57 KB)

**Carol Kinoshita**, Legislative Paralegal

503.988.3138 fx:503.988.3377

Office of Multnomah County Attorney

501 SE Hawthorne Blvd., Ste. 500,

Portland, OR 97214 (interoffice: 503/500)

Link to Multnomah County Code & Charter:

<http://www2.co.multnomah.or.us/counsel/code/index.shtml>

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. \_\_\_\_\_

Setting a Public Hearing and Directing Notice for Consideration of Boundaries for Willamette Electric People's Utility District

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

- a. On April 26, 2004, an electors' petition was filed with Multnomah County Elections Division (Elections) for formation of Willamette Electric People's Utility District (PUD).
- b. The proposed PUD boundaries are shown on the attached Exhibit A.
- c. On April 27, 2004, Elections certified the petition (ORS 261.131) and sent the petition to the Office of Energy (ORS 261.151) on April 28.
- d. The Board must set a hearing date on PUD boundaries within ten days of petition certification. (ORS 261.161).
- e. The hearing may not exceed four weeks in total length. (ORS 261.161).
- f. The Board must determine PUD boundaries within ten days of the last hearing date. (ORS 261.161).

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

1. The Board will hold a hearing on Thursday, July 15, 2004, at 10:00 a.m. in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne Boulevard, Portland, Oregon.
2. The purpose of the hearing is to consider the boundaries of the proposed PUD as described in the electors' petition.
3. The Chair is directed to provide notice of the hearing, stating the time and place of the meeting, together with the electors' petition without the attached signatures. The notice must be in compliance with the provisions of ORS 261.161.

ADOPTED this 6th day of May 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

\_\_\_\_\_  
Agnes Sowle, County Attorney



**Proposed Willamette Electric PUD boundary:**



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 04-053**

Setting a Public Hearing and Directing Notice for Consideration of Boundaries for Willamette Electric People's Utility District

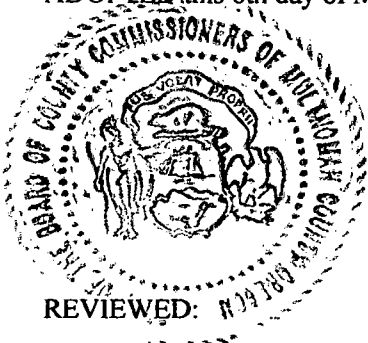
**The Multnomah County Board of Commissioners Finds:**

- a. On April 26, 2004, an electors' petition was filed with Multnomah County Elections Division (Elections) for formation of Willamette Electric People's Utility District (PUD).
- b. The proposed PUD boundaries are shown on the attached Exhibit A.
- c. On April 27, 2004, Elections certified the petition (ORS 261.131) and sent the petition to the Office of Energy (ORS 261.151) on April 28.
- d. The Board must set a hearing date on PUD boundaries within ten days of petition certification. (ORS 261.161).
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- f. The Board must determine PUD boundaries within ten days of the last hearing date. (ORS 261.161).

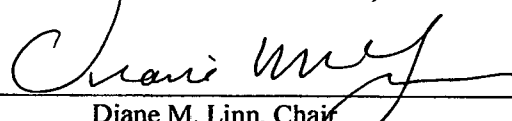
**The Multnomah County Board of Commissioners Resolves:**

1. The Board will hold a hearing on Thursday, July 8, 2004, at 9:30 a.m. in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne Boulevard, Portland, Oregon.
2. The purpose of the hearing is to consider the boundaries of the proposed PUD as described in the electors' petition.
3. The Chair is directed to provide notice of the hearing, stating the time and place of the meeting, together with the electors' petition without the attached signatures. The notice must be in compliance with the provisions of ORS 261.161.

ADOPTED this 6th day of May 2004.



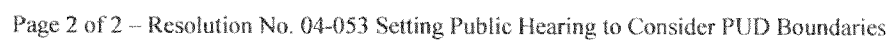
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Agnes Sowle, County Attorney

**Proposed Willamette Electric PUD boundary:**



**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

---

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: 5/6/04

SUBJECT: Sale of former library / OSU  
Extension bldg. by County, 211 SE 80th PDX  
AGENDA NUMBER OR TOPIC: Public Comment

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: The Rev. Kurt Neilson

ADDRESS: SS. Peter & Paul / 8147 SE Pine st.

CITY/STATE/ZIP: Portland OR 97215

PHONE: DAYS: 503.254.8168 EVES: 503.774.9701

EMAIL: forabb2000@yahoo.com FAX: 503.253.2291

SPECIFIC ISSUE: Request stay of sale of property  
by County

WRITTEN TESTIMONY: Building & property were donations  
to Montaville community by Kiwanis for  
purpose of community service. Community / church /  
agency coalition is actively working to keep  
building in public & community service.

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-1

**Est. Start Time:** 9:30 AM

**Date Submitted:** 04/22/04

---

**Requested Date:** May 6, 2003

**Time Requested:** 10 mins.

**Department:** Finance, Budget, Assessment & Taxation    **Division:** Budget Office

**Contact/s:** Karyne Dargan, Mark Campbell

**Phone:** 503 988-5015    **Ext.:** 22457    **I/O Address:** 503/531

**Presenters:** Karyne Dargan, Budget Manager

---

**Agenda Title:** RESOLUTION Approving the Chair's Proposed FY 2004-05 Budget for Submittal to the Tax Supervising and Conservation Commission as Required by ORS 294.421

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

---

1. **What action are you requesting from the Board? What is the department/agency recommendation?**  
Approve the FY 2004-05 Executive Budget for Multnomah County so that it may be transmitted to the Tax Supervising and Conservation Commission (TSCC).
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
The FY 2004-05 budget process is based on the plan to forward the budget to TSCC by May 15. This will comply with the formal requirement that the Budget Committee submit a budget prior to May 15. It does not imply agreement on the part of the Board with the policies included in the budget, nor with the Chair's proposed allocation of resources. The Chair's Office has met with other local jurisdictions, union representatives and representatives from the State

- to receive information and provide input and recommendations about budget reductions and cross jurisdictional impacts.
3. **Explain the fiscal impact (current year and ongoing).**  
Approving the Executive Budget and transmitting this document to TSCC is the first Board action required to move towards adopting the budget for FY 2004-05. TSCC review is a requirement of Oregon Budget Law.
  4. **Explain any legal and/or policy issues.**  
Approval of the Chair's Executive Budget and transmittal meets the legal requirement to submit a budget to Tax Supervising. After the budget has been submitted, no Fund may be increased by more than 10% in total revenue, and no property tax greater than the amounts included in the Executive Budget may be levied. Voting to forward the budget without extensive public review and comment might produce adverse comment if it were not clearly understood that the process meets a technical requirement of the law, or if the Board were not to hold extensive public review before adopting the budget. Six weeks of hearings and work sessions have been scheduled prior to adopting the budget.
  5. **Explain any citizen and/or other government participation that has or will take place.**  
Three evening public hearings are scheduled to collect public input on the budget. Additionally, the CBAC's have reviewed the budget requests and made recommendations about those requests. Transmitting the Executive Budget to the Tax Supervising and Conservation Commission allows the CBAC's further time to review the Chair's recommendations before they make comments to the Board at the departmental work sessions scheduled during May.

**Required Signatures:**

**Department/Agency Director:**

**By:**



**Date: 04/22/04**

**Budget Manager:**

**By:**



**Date: 04/22/04**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Approving the Chair's Proposed FY 2004-05 Budget for Submittal to the Tax Supervising and Conservation Commission as Required by ORS 294.421

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

- a) ORS 294.341 provides that the Board of County Commissioners (Board) is the Budget Committee for Multnomah County.
- b) ORS 294.421 requires transmittal of the Budget to the Tax Supervising and Conservation Commission (TSCC) prior to May 15.
- c) On May 6, 2004 the Board received the budget message from the Multnomah County Chair (Chair) and the Proposed Budget for fiscal year July 1, 2004 to June 30, 2005 in compliance with ORS 294.401.
- d) The Chair requests that the Board approve the Proposed Budget for submittal to the TSCC as required by ORS 294.406.
- e) The Budget submitted to the TSCC establishes the maximum expenditure for each fund. The Board may not increase these expenditures by more than ten percent.
- f) The Budget submitted to the TSCC establishes the maximum property tax levy for Multnomah County. The Board may not increase property tax levies.
- g) Submitting the Budget to the TSCC does not prevent the Board from making reallocations within the limitations noted above.
- h) The Board will conduct an extensive review and public discussion of the FY 2004-05 Budget.

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

- 1. The Budget and Service Improvement Division of the Department of Business and Community Services will prepare the FY 2004-05 Approved Budget and forward it to the TSCC.

2. The following property tax levies and categories are approved and included in the Approved Budget forwarded to the TSCC.
3. These taxes are a combination of four authorized tax rates

<b>General Gov't Category</b>	
<b>Operating Taxes</b>	<b>Tax Rate / \$1,000</b>
Permanent Tax Rate	\$ 4.3434
Library Local Option Levy	\$ 0.7550
<b>Total Operating Taxes</b>	<b>\$ 5.0984</b>
<b>Excluded From Limitation</b>	
<b>Bonded Indebtedness</b>	<b>Tax Amount</b>
General Obligation Debt Levy	\$7,841,081
<b>Total Debt Levy</b>	<b>\$7,841,081</b>

ADOPTED this 6th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

Agnes Sowle, County Attorney





## **Diane M. Linn, Multnomah County Chair**

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### **Chair's Statement May 6, 2004**

We have much important work to do on this Board and as a community to ensure that our schools, libraries, public safety system and services for our most vulnerable can be sustained through these difficult economic times. But before we get to work on next year's budget, I need to take a moment to address the broader issue of my role as County Chair and the approach I've taken to this job in the last year.

I have spoken to many members of the community, including some of my closest friends, long-time supporters, and also some of my critics. I have made some significant mistakes and owe this Board and this community an apology. Public involvement in decision-making, including ongoing, open communication and collaboration with my colleagues on the Board of County Commissioners, is one of the cornerstone values of this community.

I have not lived up to this standard as I've made some important decisions involving our library, our inclement weather policy, and most recently our decision regarding marriage equality. The other members of the Board of Commissioners are exceptional public servants. The people who live in their districts could find no more dedicated and competent representatives.

I also want to specifically mention my relationship with Commissioner Lonnie Roberts. I should have informed Commissioner Roberts much earlier than I did, as I was evaluating my obligation under the Oregon Constitution to support marriage equality. Commissioner Roberts should have been brought in on those discussions. To him and the people of East Multnomah County he and I represent, I am sorry for the way he was treated. I understand that I let the public and Commissioner Roberts down, by not being more open about the process. It will not happen again.

At the same time, based on a variety of legal opinions and affirmed by a recent Circuit Court Judge, I believe we fulfilled our duty to uphold the Oregon Constitution-----even if this was controversial. I am very proud of the role we played in bringing legal equality to the more than 3,000 families who had been denied this right previously. Let me be clear. I do not regret for one moment my support from marriage equality in Multnomah County. Any suggestion that I do is simply not accurate.

There have been other decisions I have made, such as the salary for our new Library Director and whether to pay county employees for snow days – that I would like to address. I now realize that I should have balanced my desire to make the kind of



executive decisions that are required of a County Chair with the necessity to seek input from my colleagues and the public. I have approached this job as County chair with a determination to be a strong leader and to fulfill my duties as the chief executive officer of this jurisdiction. I believe the voters who elected me expect that.

However, the public does, and should, also expect me to be inclusive and to treat all participants with respect. Growing up in the Buckman neighborhood, these values are part of my roots that I need to embrace. While you deserve determined leadership, you also deserve someone who will listen. I know I have to earn the trust of the voters----on a daily basis. My words mean nothing until I prove them through my actions. I will work my heart out to strengthen my relationship with you.

Thank you for your patience and understanding. It is a privilege to serve this community. Is it a community that I love. My hope is that we can continue to work together in accomplishing the County's important work.



## **Diane M. Linn, Multnomah County Chair**

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### **Chair's Executive Budget Message May 6, 2004**

Budgets are about priorities. This budget expresses my commitment to making sure our schools and libraries remain open for business, and critical services for our seniors and vulnerable citizens remain as strong as possible, even as we cope with continued state budget cuts and economic uncertainty.

Today I submit these proposals for the Board's consideration. This is the beginning of a broad discussion with my Board colleagues and our community stakeholders. I have left as much flexibility as possible in this proposal, confident that the final budget will be much better because of that discussion.

Once again, we face tight restrictions on our revenues. This will be the fifth time in the three years I have been Chair that we have had to make significant reductions in county programs. Those reductions will total approximately \$61 million in general funds alone when we finish this budget. This has been very difficult for me, this Board, and the incredible employees of Multnomah County who continue to deliver excellent public services in the face of the worst financial picture in a generation. But during this time we have also accomplished a great deal to be proud of.

Thanks to Multnomah County voters and taxpayers, all Multnomah County schools will be open for the full year this year and 780 additional teachers are on the job across the county, helping prepare our children for successful futures. Crucial supports to senior and disabled citizens remain in place. And our mental health reforms are on track and continue to achieve remarkable results. In all of these areas, we would be in much more difficult straits if voters had not passed the local income tax.

Community services and activities outside the classroom are also critical to the success of many children and their families. My budget expands our groundbreaking SUN School program to 46 schools across the county, helping thousands of kids enrich their lives and stay out of trouble in those critical hours after the school day ends.

Citizen support has also allowed us to continue the expansion of our world-class library system. The complex "compression" feature of our local tax levy system means our library levy will fall almost \$20 million short of projections over its five-year life, but my budget meets both the letter and the spirit of our agreements with the voters. I want to thank our new Library Director, Molly Raphael, for meeting the immediate challenge of this budget. As one example, Molly has already streamlined her senior management structure, making position cuts that will save over \$200,000 each year.



As we tighten our belts this year, I will not forget that Commissioner Cruz and Commissioner Roberts are working hard to bring new libraries to their districts. I will support their work. For me, it is a question of when, not if, those expansions will be realized.

The County's role as implementing agent for state programs will continue to be a challenge this year, particularly as changes in the Oregon Health Plan reduce our Health Department budget by several million dollars. Working with our Health Department leaders, I have crafted a budget intended to maintain as much reach and equity as possible in our health clinic network. I look forward to a creative discussion with the Board and our stakeholders to further improve this plan.

Public safety and the prosecution of criminals remain high priorities in this budget. I want to thank Sheriff Bernie Giusto and his staff for their cooperation and partnership in wrestling with the difficulties of corrections and law enforcement funding. Sheriff Giusto and I have negotiated what I think is an unprecedented corrections revenue agreement that we will jointly recommend to the Board. It seeks to minimize the loss of county jail bed capacity. And it commits us to a collaborative examination of safe and cost-effective sentencing alternatives, including electronic monitoring and others. We have also agreed to continue our joint efforts to identify funding and programming options to open the Wapato jail facility.

In the coming year, this Board will continue to support the creation of new and better jobs across Multnomah County. Our Strategic Investment Program has brought hundreds of quality jobs to East County, and later this morning we will announce another economic development opportunity. And we will continue to work with the business community and City of Portland in examining potential changes in our local tax structure that could benefit business development.

Yesterday, I asked the County's Executive Team to accelerate the planning process for ramping down Itax spending in preparation for the expiration of this temporary tax in two years. Working with the Board, Sheriff, DA and Auditor, they will develop a process to produce clear alternatives we can use to frame next year's budget process by late this fall.

Already I have had department heads working with Commissioners toward a common understanding of the challenges we face. I want to point out just a few areas where Commissioners have already made important contributions to this proposal.

Commissioner Naito helped build and advocate for our runaway and homeless youth system. Her leadership of the Local Public Safety Coordinating Council has helped shape our public safety priorities. Our early childhood and mental health systems continue to improve under her oversight. And she has recently identified several ways we can improve the accuracy and transparency of our fiscal systems, including improved position control methods, out-of-state travel restrictions and better use of audit processes. I will support each of these suggestions.

Commissioner Rojo de Steffey has worked hard to insure the continuation of senior outreach services in the library budget and improved access to mental health services for Latinos. She is leading the review of our transportation resource allocation and governance processes. Her work

to secure funding for the Sauvie Island Bridge has been nothing short of spectacular. And now, it's on to Sellwood!

Commissioner Cruz has weighed in effectively on behalf of our runaway youth crisis line, La Clinica Health Center, and the need to improve our federal funding strategies. And I have asked the appropriate departments to work with her to identify resources to maintain the momentum of her Gang Violence Prevention recommendations.

Commissioner Roberts has championed the expansion of SUN schools in East County and is now leading the implementation group to build the East County Courthouse. He was a key player in our negotiations over the Sheriff's budget and advocated funding for the Soil and Water Conservation Districts. And yes, Lonnie, there is renewed funding in this budget for the Extension Service. Not as much as we may need, but a good faith down payment on another creative discussion.

Last, but certainly not least, the budgetary discipline reflected in this proposal will meet the reserve fund policy that has allowed this jurisdiction to retain our high bond rating. That translates into direct savings to taxpayers through lower bond interest rates.

I would like to thank the Commissioners, Budget Office, department directors and staff for their tireless work to identify cost savings and produce the detailed analysis of our billion dollar budget contained in this proposal.

I would also like to thank Sheriff Bernie Guisto, Auditor Suzanne Flynn and District Attorney Mike Schrunk for their professional cooperation.

Now I look forward to working with you all and with the community to reshape and improve this proposal, and adopt a final budget for Multnomah County government.

Thank you very much.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 04-055**

Approving the Chair's Proposed FY 2004-05 Budget for Submittal to the Tax Supervising and Conservation Commission as Required by ORS 294.421

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

- a) ORS 294.341 provides that the Board of County Commissioners (Board) is the Budget Committee for Multnomah County.
- b) ORS 294.421 requires transmittal of the Budget to the Tax Supervising and Conservation Commission (TSCC) prior to May 15.
- c) On May 6, 2004 the Board received the budget message from the Multnomah County Chair (Chair) and the Proposed Budget for fiscal year July 1, 2004 to June 30, 2005 in compliance with ORS 294.401.
- d) The Chair requests that the Board approve the Proposed Budget for submittal to the TSCC as required by ORS 294.406.
- e) The Budget submitted to the TSCC establishes the maximum expenditure for each fund. The Board may not increase these expenditures by more than ten percent.
- f) The Budget submitted to the TSCC establishes the maximum property tax levy for Multnomah County. The Board may not increase property tax levies.
- g) Submitting the Budget to the TSCC does not prevent the Board from making reallocations within the limitations noted above.
- h) The Board will conduct an extensive review and public discussion of the FY 2004-05 Budget.

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

- 1. The Budget and Service Improvement Division of the Department of Business and Community Services will prepare the FY 2004-05 Approved Budget and forward it to the TSCC.

2. The following property tax levies and categories are approved and included in the Approved Budget forwarded to the TSCC.
3. These taxes are a combination of four authorized tax rates

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**General Gov't Category**

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<b>Operating Taxes</b>	<b>Tax Rate / \$1,000</b>
Permanent Tax Rate	\$ 4.3434
Library Local Option Levy	\$ 0.7550
 Total Operating Taxes	 \$ 5.0984

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**Excluded From Limitation**

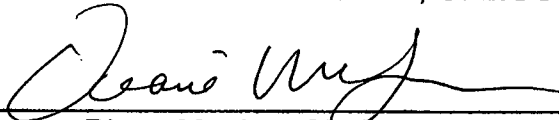
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<b>Bonded Indebtedness</b>	<b>Tax Amount</b>
General Obligation Debt Levy	\$7,841,081
 Total Debt Levy	 \$7,841,081

ADOPTED this 6th day of May, 2004.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Agnes Sowle, County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-2

**Est. Start Time:** 10:00 AM

**Date Submitted:** 04/28/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Non-Departmental

**Division:** Commissioner Maria Rojo de Steffey

**Contact/s:** Paul Iarrobino, Aging & Disability Services  
David Martinez, District 1

**Phone:** 503 988-5220

**Ext.:** 24030 & 86796

**I/O Address:** 503/600

**Presenter:** Paul Iarrobino, Aging & Disability Services  
Jan Joslyn, Aging & Disability Services

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**Agenda Title:** PROCLAMATION Proclaiming May 2004 National Older Americans Month in Multnomah County, Oregon

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?**  
Approval of Proclamation
  2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
The Month of May is recognized nationally as Older Americans Month. This year the theme is "Aging Well, Living Well". We are recognizing the contributions of older americans and celebrating the growing number of older americans who are living longer, healthier, and more productive lives.
  3. **Explain the fiscal impact (current year and ongoing).**  
No current year or ongoing fiscal impact.



**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

**If grant application/notice of intent, explain:**

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

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

None.

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

N/A

**Required Signatures:**

**Department/Agency Director:**



**Date: 4/28/04**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMTION NO. \_\_\_\_\_**

Proclaiming May 2004 National Older Americans Month in Multnomah County, Oregon

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

- a. May 2004 is National Older Americans Month.
- b. The theme for this year of "Aging Well, Living Well" celebrates and recognizes the growing number of older Americans who are living longer, healthier, and more productive lives.
- c. In the forty-one years since the inception of Older Americans Month, the elder population of the United States has grown to include a larger number of adults living into their 80s and 90s. Today, one in six Americans, 44 million people, is 60 years of age or older. Four million of these are 85 years of age or older. By the year 2030, one in five Americans will be over 65 and the number of those over 85 will have tripled.
- d. The basic principle that older adults are entitled to spend their retirement years in good health living with independence and dignity is at the core of our nation and county's system of home and community-based care.
- e. Today, Multnomah County enjoys an elder population approaching 100,000, with 10% of this population over 85 years of age. In the last decade Multnomah County's over 85 population has increased by 18%.
- f. Seniors in Multnomah County benefit from partnerships among senior centers, Loaves and Fishes, Multi-Ethnic Action Committee, Elders in Action, and many community organizations based throughout the greater metropolitan area, striving to promote healthy lifestyles and ensure that all our citizens live long and age well.
- g. Seniors in Multnomah County have access to a wide range of services including health insurance counseling; senior center activities; respite and adult day services; in-home assistance and personal care services; nutrition counseling and meals-on-wheels; energy, housing and legal assistance; and elder abuse prevention and ombudsmen programs.
- h. The fact that older Americans are enjoying increased health and longevity is without a doubt something to celebrate. We are proud of our commitment to fostering quality of life and well being for our honored citizens.

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

The month of May 2004 is National Older Americans Month in Multnomah County, Oregon. We urge community and government leaders, policy makers, business people, educators, volunteers, and all citizens of Multnomah County to celebrate our older citizens and support all aspects of "Aging Well and Living Well."

ADOPTED this 6th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMTION NO. 04-054**

Proclaiming May 2004 National Older Americans Month in Multnomah County, Oregon

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

- a. May 2004 is National Older Americans Month.
- b. The theme for this year of "Aging Well, Living Well" celebrates and recognizes the growing number of older Americans who are living longer, healthier, and more productive lives.
- c. In the forty-one years since the inception of Older Americans Month, the elder population of the United States has grown to include a larger number of adults living into their 80s and 90s. Today, one in six Americans, 44 million people, is 60 years of age or older. Four million of these are 85 years of age or older. By the year 2030, one in five Americans will be over 65 and the number of those over 85 will have tripled.
- d. The basic principle that older adults are entitled to spend their retirement years in good health living with independence and dignity is at the core of our nation and county's system of home and community-based care.
- e. Today, Multnomah County enjoys an elder population approaching 100,000, with 10% of this population over 85 years of age. In the last decade Multnomah County's over 85 population has increased by 18%.
- f. Seniors in Multnomah County benefit from partnerships among senior centers, Loaves and Fishes, Multi-Ethnic Action Committee, Elders in Action, and many community organizations based throughout the greater metropolitan area, striving to promote healthy lifestyles and ensure that all our citizens live long and age well.
- g. Seniors in Multnomah County have access to a wide range of services including health insurance counseling; senior center activities; respite and adult day services; in-home assistance and personal care services; nutrition counseling and meals-on-wheels; energy, housing and legal assistance; and elder abuse prevention and ombudsmen programs.
- h. The fact that older Americans are enjoying increased health and longevity is without a doubt something to celebrate. We are proud of our commitment to fostering quality of life and well being for our honored citizens.

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

The month of May 2004 is National Older Americans Month in Multnomah County, Oregon. We urge community and government leaders, policy makers, business people, educators, volunteers, and all citizens of Multnomah County to celebrate our older citizens and support all aspects of "Aging Well and Living Well."

ADOPTED this 6th day of May, 2004.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-3

**Est. Start Time:** 10:15 AM

**Date Submitted:** 04/26/04

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**Requested Date:** May 6, 2004

**Time Requested:** 2 minutes

**Department:** Non-Departmental

**Division:** County Attorney

**Contact/s:** Agnes Sowle, Sandra Duffy

**Phone:** 503.988.3138

**Ext.:** 83138

**I/O Address:** 503/500

**Presenters:** Sandra Duffy

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**Agenda Title:** Authorizing Filing of an Intervention in Consolidated Land Use Board of Appeals (LUBA) Cases

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?**

Approve filing of a Motion to Intervene in two LUBA cases.

2. **Please provide sufficient background information for the Board and the public to understand this issue.**

On March 1, 2004, DEQ issued NPDES MS4 permits to Multnomah County which is a co-permittee with Gresham and Fairview on one, and Portland and Port of Portland, on the other. These permits were appealed to LUBA in *Nicita v. DEQ* (LUBA No. 2004-051) and *Callison v. DEQ* (LUBA No. 2004-057).

The County, as a co-permittee has an interest in defending these stormwater permits and protecting itself from liability. Gresham, Fairview, Portland and Port of Portland, the County's co-permittee, have all filed Motions to Intervene.

3. **Explain the fiscal impact (current year and ongoing).**  
N/A

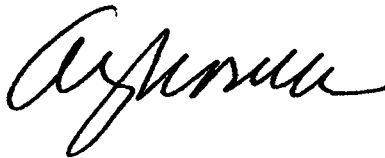
4. **Explain any legal and/or policy issues.**

On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. However, the County Attorney must obtain Board approval for all settlements of over \$25,000, as well as to imitate any claim by the County. The County Attorney's Office is asking permission to initiate participation in the above-referenced LUBA cases to protect the County's interests in its NPDES MS4 permits.

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

**Required Signatures:**

**Department/Agency Director:**



**Date: 04/26/04**

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-4

**Est. Start Time:** 10:17 AM

**Date Submitted:** 04/26/04

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**Requested Date:** May 6, 2004

**Time Requested:** 2 minutes

**Department:** Non-Departmental

**Division:** County Attorney

**Contact/s:** Agnes Sowle, Sandy Duffy

**Phone:** 503.988.3138

**Ext.:** 83138

**I/O Address:** 503/500

**Presenters:** Sandra Duffy

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**Agenda Title:** Authorization Filing of an *Amicus Brief* in the Oregon Supreme Court

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?**

Approve filing of an *Amicus Brief* in *Coast Range Conifers, LLC v. State of Oregon* with the Supreme Court.

2. **Please provide sufficient background information for the Board and the public to understand this issue.**

The County Attorney's Office seeks the premission to sign onto an Oregon Supreme Court *Amicus Brief* which will be filed by Community Rights Counsel, Washington D.C., on behalf of Respondent, State of Oregon.

*Amicus* will include municipalities and organizations whose members include local governments and local officials in Oregon and throughout the United States.

The case is a land use "takings" case in which logging restrictions on 9 acres of a 40 acre parcel was considered by the Court of Appeals as a compensable taking. This appellate

court ruling rejected the "whole parcel rule" and potentially subjects Oregon municipalities to huge, unprecedented takings awards for ordinary land use planning activities. Multnomah County has an interest in the development of regulatory takings jurisprudence and in ensuring continued adherence to the "whole parcel rule."

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

N/A

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

On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County Attorney to settle claims and litigation against the County or its employees in amounts up to \$25,000 per case. However, the County Attorney must obtain Board approval for all settlements of over \$25,000, as well as to imitate any claim by the County.

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

N/A

**Required Signatures:**

**Department/Agency Director:**



**Date: 04/26/04**

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-5

**Est. Start Time:** 10:19 AM

**Date Submitted:** 04/27/04

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**Requested Date:** May 6, 2004

**Time Requested:** 5 Minutes

**Department:** Non-departmental

**Division:** County Attorney

**Contact/s:** John Thomas

**Phone:** 503.988.3138

**Ext.:** 83138

**I/O Address:** 503/500

**Presenters:** John Thomas

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**Agenda Title:** Authorizing Settlement of a claim by Dan and Doris Boyd relating to work done on a Cornelius Pass Road Transportation Project.

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Approve settlement of a claim by Dan and Doris Boyd relating to work done on a Cornelius Pass Road Transportation Project.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.** The County did work to stabilize a part of Cornelius Pass Road in 2000 and 2001. Some of that work was done under an agreement with Dan and Doris Boyd who own property on both sides of the road where the work was done. The Boyd's claim that the County and its contractor breached the agreement by not completing some work and not doing other work in a good and workmanlike manner. The Boyd's further claim that the County and its contractors trespassed on Boyd's property and damaged trees.

In January, 2003 a slide occurred on the Boyd's property resulting from the failure of the County to maintain a culvert in the road adjacent to Boyd's property. The County was required to use part of Boyd's property to repair the slide area. Boyd and the County agree that it is in the party's mutual best interest for the County to purchase the area



where the slide occurred and the repairs were done so that it is available to the County if further repairs are needed.

The parties have agreed on a settlement of \$70,000. The County contractor has agreed to pay \$20,000 toward the settlement. For the remaining sum the County will receive a full release of all claims against the County arising out of the work performed in 2000 and 2001 and a bargain and sale deed to the parcel being acquired from the Boyds.

The settlement is recommended.

3. **Explain the fiscal impact (current year and ongoing).** The settlement will be paid out of the 2003-04 Transportation Budget.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. **Explain any legal and/or policy issues involved.** Legal issues are set out above.

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

**Required Signatures:**

A handwritten signature in black ink, appearing to read "Agustin", is positioned above the "Department/Agency Director:" label.

**Department/Agency Director:**

**Date: 4/27/2004**

## AGENDA PLACEMENT REQUEST

BUD MOD #:

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-6

**Est. Start Time:** 10:25 AM

**Date Submitted:** 04/28/04

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**Requested Date:** May 6, 2004

**Time Requested:** 5 Minutes

**Department:** Non-Departmental

**Division:** Chair's Office

**Contact/s:** Dave Boyer /John Thomas

**Phone:** Boyer 83903  
Thomas 83138

**Ext.:**

**I/O Address:** Boyer 503/531  
Thomas 503/500

**Presenters:** Dave Boyer/John Thomas

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**Agenda Title:** Resolution Authorizing Property Tax Refunds Under ORS 311.806 (2) for Appeals Pending More Than Six Years

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Approve Resolution.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.** Multnomah County has a number of tax appeal cases that have been pending for more than six years. ORS 311.806 (2) prohibits the tax collector from issuing tax refunds for tax years beginning more than 6 years ago. As of today tax refunds for years before 1999-00 are prohibited. The Board may (but is not required to) approve tax refunds for tax years beginning more than 6 years ago if a written claim for refund is made to the Board during the six-year period. No written claims for refund have been made on any of the pending cases. The Board may also (but is not required to) approve refunds even if no written claim is made if: 1) the Director of the Department of Revenue requests that the Board issue a refund; or 2) the county tax collector approves the refund. Dave Boyer, the county tax collector approves refunds of taxes in all pending cases.

3. **Explain the fiscal impact (current year and ongoing).** Approval of the Resolution will result in refunds being made that would have been made in the ordinary course of operation of Assessment and Taxation but for the cases being more than six years old. There will be no adjustments to expected property tax revenues as a result of refunds authorized by this Resolution.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

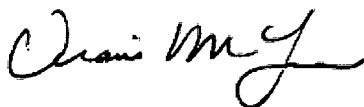
**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. **Explain any legal and/or policy issues involved.** Legal issues are set out above.
5. **Explain any citizen and/or other government participation that has or will take place.** N/A

**Required Signatures:**

**Department/Agency Director:** \_\_\_\_\_



**Date: 4/28/2004**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Resolution Authorizing Property Tax Refunds Under ORS 311.806 (2) for Appeals Pending More Than Six Years.

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

- a. Multnomah County has a number of tax appeal cases that have been pending for more than six years.
- b. ORS 311.806 (2) prohibits the tax collector from issuing tax refunds for tax years with assessment dates more than six years prior to the date of this resolution, that is, for all tax years prior to 1999-00 unless 1) a refund request was made by the taxpayer during the six year period or 2) the county tax collector approves the refund.
- c. No refund request was made by any taxpayer in any pending case.
- d. Dave Boyer, the county tax collector approves refunds of taxes in all pending cases.
- e. It is in the best interest of the County for refunds to be authorized in all pending cases where the appeal involves tax years prior to 1999-00.

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

1. The Assessment and Taxation Division is authorized to make refunds of property taxes in all pending cases involving tax years prior to 1999.
2. Refunds shall not be allowed for any future cases involving tax years where the assessment date is more than six years from the date of refund unless the taxpayer makes a written request for refund as provided in ORS 311.806 (2).

ADOPTED this 6<sup>th</sup> day of May 2004.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_

John S. Thomas, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 04-056**

Authorizing Property Tax Refunds Under ORS 311.806 (2) for Appeals Pending More than Six Years

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

- a. Multnomah County has a number of tax appeal cases that have been pending for more than six years.
- b. ORS 311.806 (2) prohibits the tax collector from issuing tax refunds for tax years with assessment dates more than six years prior to the date of this resolution, that is, for all tax years prior to 1999-00 unless 1) a refund request was made by the taxpayer during the six year period or 2) the county tax collector approves the refund.
- c. No refund request was made by any taxpayer in any pending case.
- d. Dave Boyer, the county tax collector approves refunds of taxes in all pending cases.
- e. It is in the best interest of the County for refunds to be authorized in all pending cases where the appeal involves tax years prior to 1999-00.

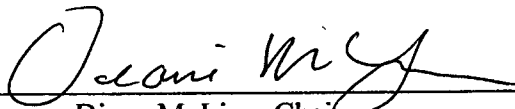
**The Multnomah County Board of Commissioners Resolves:**

1. The Assessment and Taxation Division is authorized to make refunds of property taxes in all pending cases involving tax years prior to 1999.
2. Refunds shall not be allowed for any future cases involving tax years where the assessment date is more than six years from the date of refund unless the taxpayer makes a written request for refund as provided in ORS 311.806 (2).


ADOPTED this 6th day of May 2004.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
John S. Thomas, Assistant County Attorney

# AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-7

**Est. Start Time:** 10:30 AM

**Date Submitted:** 04/12/04

**Requested Date:** May 6, 2004

**Time Requested:** 10 mins

**Department:** Office of School & Community Partnerships

**Division:** Housing & Public Works

**Contact/s:** Mary T. Li, OSCP Manager  
HC Tupper

**Phone:** 503-988-6295

**Ext.:** 83114

**I/O Address:** 166/200

**Presenters:** HC Tupper

**Agenda Title:** Public Hearing to Consider and Approve the 2004-2005 Consolidated Plan and Annual Action Plan for the Community Development Block Grant Program.

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 1. What action are you requesting from the Board? What is the department/agency recommendation?**

Approval of the 2004-2005 Consolidated Plan and Annual Action Plan.

- 2. Please provide sufficient background information for the Board and the public to understand this issue.**

Multnomah County is entitled annually to receive U.S. Department of Housing and Urban Development (HUD) funds through the Community Development Block Grant program. For program year 2004/05 the grant amount is \$360,000. HUD grant funds also are allocated to the County from the City of Portland through the Home Investment Partnership Program (HOME) via a locally determined formula. Both sources are used in the County's Community Development Program.

HUD program requirements include the development of a Consolidated Plan which provides principles and priorities for allocation of these federal funds and includes a market analysis, demographics, and descriptions of resources for low and moderate income persons. A program consortium comprised of the cities of Portland and Gresham

and Multnomah County has worked to produce the annual update of this Plan. A required part of the Consolidated Plan Update is the inclusion of the Annual Action Plan, which provides the list of specific annual projects which will be funded via CDBG and HOME within the County.

The County's Policy Advisory Board rated and ranked the list of activities (Annual Action Plan draft) on April 8, 2004 and held a public hearing on April 22, 2004.

Citizen participation for the Consolidated Plan Update has taken place through a series of public hearings held by the City of Portland through the Housing and Community Development Commission.

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

The 2004-2005 CDBG Grant award is \$360,000 beginning July 1, 2004, plus approximately \$30,000 of program income from repayments of older home and rental rehabilitation loans. The County also receives a share of federal HOME funds for affordable housing development purposes from the Portland HOME consortium. For 2004-5 the amount made available for project development is \$144,311.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**  
Department of Housing and Urban Development (DHUD)

- ❖ **Specify grant requirements and goals.**

The Community Development Block Grant must meet the national objective of benefit to low and moderate income persons/households residing in the Urban County Area as defined by DHUD and the CDBG Consortium jurisdictions of



Multnomah County, Fairview, Maywood Park, Troutdale, Wood Village, and Lake Oswego. These jurisdictions have partnered to form the program's Policy Advisory Board.

❖ **Explain grant funding detail – is this a one time only or long term commitment?**

The CDBG grant is annually renewed because Multnomah County is an urban County entitlement. As long as Congress reauthorizes the CDBG program, Multnomah County will receive funding.

❖ **What are the estimated filing timelines?**

Consolidated Plan and Annual Action Plan due May 15, 2004.

❖ **If a grant, what period does the grant cover?**

The Community Development Block Grant covers the period July 1, 2004 through June 30, 2005.

❖ **When the grant expires, what are funding plans?**

The CDBG grant is annually renewed as an urban county entitlement.

❖ **How will the county indirect and departmental overhead costs be covered?**

The CDBG grant may allocate up to 20% for administrative costs including personnel, materials and services, and planning functions.

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

None are anticipated.

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

Policy Advisory Board recommendations: Public testimony solicited at public hearing on April 22, 2004.

Housing and Community Development Commission review: Public testimony solicited at public hearings April 7 and May 4 2004.

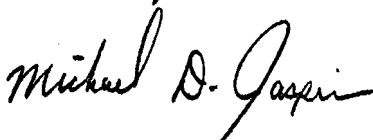
**Required Signatures:**

**Department/Agency Director:**



**Date:** 04/09/04

**Budget Analyst**



**By:**

**Date:** 04/13/04

**Dept/Countywide HR**

**By:**

**Date:**

**DRAFT**

**MULTNOMAH COUNTY**  
**2004-05 CDBG / HOME Annual Action Plan**

CDBG Grant: \$360,000  
Program Income: \$30,000

**COMMUNITY DEVELOPMENT BLOCK GRANT:**

**NEIGHBORHOOD REVITALIZATION (\$167,269)**

Walnut Avenue Improvements City of Wood Village	\$71,183
Community Center Access & Landscape City of Fairview	\$53,000
Human Solutions Inc. Multi-Service Center City of Gresham	\$43,086

**PUBLIC SERVICES (\$48,731)**

Housing Assistance Project Legal Aid Services of Oregon	\$ 4,600
Fair Housing Project Legal Aid Services of Oregon	\$10,000
Fair Housing Enforcement Fair Housing Council of Oregon	\$ 2,780
Transitional Housing Program Human Solutions, Inc.	\$31,351

**Housing Rehab (\$95,500) + (RR Account \$24,000) = 119,500**

Adapt-a-Home Unlimited Choices	\$64,500
Mend-a-Home (\$24,000 RRP + \$31,000 CDBG) Unlimited Choices	\$55,000

**CDBG ADMINISTRATION (\$78,000)**

General Administration	\$70,109
Housing and Community Development Commission	\$ 7,891
Reserve	\$ 500

\* \* \*

**HOME PARTNERSHIP INVESTMENT PROGRAM:**

HOME funds are available to Multnomah County through the HOME Consortium (City of Portland, City of Gresham, Multnomah County).

**HOUSING DEVELOPMENT (TBD by BHCD)**

Willow Tree Construction Housing Authority of Portland	\$144,311
---	-----------

AVAILABLE ONLINE  
(AGENDA PACKET)

# CONSOLIDATED PLAN

Action Plans FY 2004-2005

City of Portland

City of Gresham

Multnomah County



Funded by  
The U.S. Department of Housing &  
Urban Development



Draft

# CONSOLIDATED PLAN

Action Plans FY 2004-2005

City of Portland

City of Gresham

Multnomah County



Funded by  
The U.S. Department of Housing &  
Urban Development



# Draft

# One Year Action Plan

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**Appendix A:** Proposed Activities of the City of Portland, FY 2003-2004  
 Proposed Activities of the City of Gresham, FY 2003-2004  
 Proposed Activities of the Multnomah County, Oregon, FY 2003-2004

**Appendix B:** City of Portland Citizen Participation Plan  
 City of Gresham Citizen Participation Plan  
 Multnomah County Citizen Participation Plan  
*(these are included in the FY 2002-03 Action Plan)*

**Appendix C:** Certifications  
 The City of Portland  
 The City of Gresham  
 Multnomah County, Oregon



# ONE YEAR ACTION PLAN

## INTRODUCTION

### THE CONSOLIDATED PLAN AND ANNUAL ACTION PLAN UPDATE

The *Consolidated Plan* ("Plan") is a combined plan and application to the U.S. Department of Housing and Urban Development (HUD) for funds available to cities and counties under four formula grant programs. The statutes for the grant programs set forth three basic goals, each of which must *primarily benefit low- and very low-income persons* (people with incomes below 80 % of Median Family Income (MFI)):

- 1) *To provide decent housing:* First, the programs are to provide decent housing. Included within this broad goal are the following: assist homeless persons to obtain affordable housing; retain the affordable housing stock, increase the availability of permanent housing that is affordable to low-income Americans without discrimination; and increase supportive housing that includes structural features and services to enable persons with special needs to live in dignity.
- 2) *To provide a suitable living environment:* This includes programs aimed at improving the safety and livability of neighborhoods; increasing access to quality facilities and services; reducing the isolation of income groups within areas by de-concentrating low-income housing opportunities and revitalizing deteriorating neighborhoods; restoring and preserving natural and physical features of special value for historic, architectural, or aesthetic reasons; and conserving energy resources.
- 3) *To expand economic opportunities:* This goal includes creating jobs accessible to low- and very low-income persons; providing access to credit for community development that promotes long-term economic and social viability; and empowering low- and very low-income persons in federally assisted and public housing to achieve self-sufficiency.

The grant programs covered by the *Plan* include:

**Community Development Block Grant (CDBG) Program.** The Cities of Portland and Gresham, and Urban Multnomah County (the area of Multnomah County outside of the Portland and Gresham city limits) each receive CDBG funds which can be used for activities such as housing, public services, community facilities, public improvements, economic development, and community revitalization.

**HOME Investment Partnership.** The HOME program is authorized under Title II of the National Affordable Housing Act for the purposes of (1) expanding the supply of affordable housing for low- and very low-income families with an emphasis on rental housing; (2) building state and local nonprofit capacity to carry out affordable housing programs; and (3) providing coordinated assistance to participants in development of affordable low-income housing.

The Cities of Portland and Gresham and Multnomah County are partners in the HOME Consortium, with Portland designated as the lead jurisdiction.

**Emergency Shelter Grant (ESG).** The City of Portland is the only jurisdiction in the County that receives a direct award of ESG funds. Programs funded completely or in part by ESG money are part of the continuum of care system of homeless services. In accordance with the strategies adopted in the *Consolidated Plan 2000-2005*, Portland has used ESG dollars primarily to "operate facilities and appropriate housing options with supportive services that will meet the needs of homeless individuals and families." ESG funds can be used for emergency shelter programs and other direct service programs for homeless people. The City and Multnomah County work together on planning and allocation decisions.

**Housing Opportunities for People with AIDS (HOPWA).** The City of Portland administers the HOPWA program for a six-county area: Multnomah, Washington, Clackamas, Clark, Columbia, and Yamhill. Portland works closely with the six counties in planning and allocation. HOPWA funds are targeted to low-income persons with HIV/AIDS and their families. Supportive services must be provided as part of any housing funded by HOPWA. HOPWA can fund supportive services but will be primarily targeted to housing capital and rental assistance funding.

The *Plan* replaces all former HUD planning and application requirements with a single submission. Every year, the consortium of jurisdictions that filed the *Consolidate Plan 2000-2005* must submit an *Action Plan* setting forth the activities to be undertaken in the next fiscal year. It must be submitted to HUD by May 15, 2004, to ensure that funds will be available by July 1, 2004, the start of the 2004-2005 fiscal year.

### **CITIZEN PARTICIPATION PLANS: REVISIONS**

*Consolidated Plan* regulations require that recipients of federal funds follow a detailed citizen participation plan that address the following elements: participation; access to meetings; access to information; access to records; publication of the plan; public hearings; notice of hearings; citizen comments; technical assistance; and complaints and amendments.

The three jurisdictions have not revised their existing Citizen Participation Plans since the *Action Plan 2002-2003* was filed. The three plans are attached to the *Consolidated Plan 2000-2005* as Appendix B.

## **PLAN DEVELOPMENT PROCESS**

### **LEAD AGENCY**

The City of Portland's Bureau of Housing and Community Development (BHCD) administers funds from these federal grants (on behalf of the Consortium): HOME Investment Partnership Program (HOME), Emergency Shelter Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). BHCD is designated as the lead agency for the *Plan*. The Bureau of Housing and Community Development has delegated the coordination of the *Plan* process and countywide plan development to the Housing and Community Development Commission (HCDC) and its staff.

### **INTER-AGENCY AND JURISDICTIONAL CONSULTATION**

The *Plan* development process for FY 2004-2005 carried out the inter-jurisdictional, cooperative venture begun during the initial stages of the Comprehensive Housing Affordability Strategy (CHAS) planning process. The cities of Portland and Gresham, along with the rest of Multnomah County, formalized their relationship by forming a HOME consortium in 1991. These jurisdictions committed to an ongoing planning effort by instituting a citizen body, the Housing and Community Development Commission (HCDC). This county-wide Commission recommends housing policy, advising the three jurisdictions on budget decisions affecting housing programs, ensuring the linkage of associated social services with these programs, and guiding and monitoring the updates of the *Plan*. HCDC acts as a focused public forum on all affordable-housing matters and advocates, when necessary, for low- and moderate-income residents of the County.

### **THE POLICY AND PLANNING FUNCTION OF HCDC**

HCDC consists of 15 members, nine of whom are appointed by the City of Portland and three each by the City of Gresham and Multnomah County. This body is the inter-jurisdictional citizens' body that reviews and makes policy recommendations to the jurisdictions regarding housing and community development plans submitted to the Department of Housing and Urban Development. The principles, priorities, and strategies incorporated in the *Plan* form the basis for the final budget recommendations made to the three jurisdictions.

The staff for HCDC consists of an interagency team representing Portland's Bureaus of Housing and Community Development and Planning, the Housing Authority of Portland, Multnomah County's Office of School and Community Partnerships, Multnomah County's Housing Director, and Gresham's Community Development Department. In addition, extensive consultation has been undertaken with the State of Oregon Department of Housing and Community Services, Multnomah County's Department of County Human Services, social service agencies, and nonprofit housing organizations.

## INSTITUTIONAL STRUCTURE FOR HOUSING AND SPECIAL NEEDS SERVICE DELIVERY

The responsibility for implementing the *Plan* will rest with Portland's Bureau of Housing and Community Development, Gresham's Community Development Department, Multnomah County's Community Development Program, and the Housing Authority of Portland. However, implementation cannot proceed without the involvement and support of several public and private agencies. The following list describes briefly the various institutions, businesses, and agencies responsible for the delivery of housing services in the region. Each description of a product and market segment is not intended to be a complete account of activities for each entity.

### US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Product: Program funds, loan guarantees  
Market Segment: Low- and moderate-income housing and community development activities

### CONVENTIONAL LENDERS

Product: Private and public/private partnership housing loans  
Market Segment: All

### ENTERPRISE FOUNDATION

Product: Technical assistance for neighborhood and nonprofit developers  
Predevelopment loans  
Market Segment: 80% to below 50% MFI

### EQUITY INVESTORS

Product: Equity participation as owner or joint venture partner for housing developments  
Tax credit investments  
Market Segment: Market rate for equity investments  
Low-income for tax-credit investment

### FEDERAL HOME LOAN BANK

Product: Wholesale source of long-term credit for housing consumers  
Market Segment: All

### FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC)/GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA)

Product: Conduit for single family and multi-family loans  
Market Segment: Low- and moderate-income

### FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA)

Product: Loan purchases from conventional lenders  
Credit enhancement for tax-exempt low-income housing bonds  
Grants  
Market Segment: Median-to-low income

**FOR-PROFIT DEVELOPERS**

Product: Most single- and multi-family housing developments  
Market Segment: All, but primarily above 80% MFI.

**GRESHAM COMMUNITY DEVELOPMENT DEPARTMENT**

Product: Federal funds administrator for loans and grants  
Market Segment: Very low-to-moderate income neighborhoods and individuals

**GRESHAM COMMUNITY DEVELOPMENT AND HOUSING COMMITTEE (CDHC)**

Product: Policy recommendations  
Market Segment: Very low-, low-, and moderate-income households as established by the *Consolidated Plan*

**HOUSING AND COMMUNITY DEVELOPMENT COMMISSION (HCDC)**

Product: Policy recommendations  
Market Segment: Very low-, low-, and moderate-income households as established by the *Consolidated Plan*

**HOUSING AUTHORITY OF PORTLAND (HAP)**

Product: Affordable housing in Multnomah County  
Public Housing, Hope VI, and Section 8 programs  
Bonding capacity  
Market Segment: Very low- and low-income rental housing

**METROPOLITAN SERVICE DISTRICT (METRO)**

Product: Technical assistance for housing policy and planning  
Market Segment: All incomes, with a special focus on affordable housing to households with income of 80% MFI and below

**MULTNOMAH COUNTY DEPARTMENT OF COUNTY HUMAN SERVICES (DCHS)**

Product: Administration of federal, state and local service funds, direct social service delivery, contact for social service delivery.  
Market Segment: Supportive housing for low-income elderly, physically disabled, mentally ill and developmentally disabled.

**MULTNOMAH COUNTY HOUSING PROGRAM**

Product: Policy recommendations, Coordination of County housing programs, Housing development grants (Strategic Investment Program), and Sale/lease of surplus county properties for special needs and supportive special needs housing in Multnomah County.  
Market Segment: Very low income (30% AMI and below) individuals and families with special needs.

**MULTNOMAH COUNTY OFFICE OF SCHOOL AND COMMUNITY PARTNERSHIPS (OSCP)**

Product: Administration of community development funds  
Donation of tax-foreclosed properties  
Social service delivery grants  
Market Segment: Low-income and special needs rental housing; homeless family shelters and transitional housing

**NEIGHBORHOOD PARTNERSHIP FUND**

Product: Technical assistance to local nonprofit CDCs  
Market Segment: 80% MFI and below

**NETWORK FOR OREGON AFFORDABLE HOUSING (NOAH)**

Product: Permanent financing through consortium of lenders  
Market Segment: Low- and moderate-income rental

**NONPROFIT DEVELOPERS (CDCs)**

Product: Single- and multi-family housing (both owner and rental)  
Market Segment: Primarily below 80% MFI.

**PORTLAND BUREAU OF DEVELOPMENT SERVICES (BDS)**

Product: Regulatory oversight of building, housing, and zoning codes  
Market Segment: All

**PORTLAND BUREAU OF HOUSING AND COMMUNITY DEVELOPMENT (BHCD)**

Product: Contract administrator for federal loan and grant programs  
Operating support to community nonprofit developers  
Market Segment: Rental and homeownership in low- and moderate-income neighborhoods and community development activities

**PORTLAND BUREAU OF PLANNING (BOP)**

Product: Long range policy and Comprehensive Plan development  
Neighborhood and community planning  
Market Segment: All

**PORTLAND DEVELOPMENT COMMISSION (PDC)**

Product: Housing rehabilitation loans  
Housing equity grants  
Tax increment financing, urban renewal agency  
Market Segment: Housing at all income levels; uses federal funds primarily to serve households below 80% MFI.

**PORTLAND HOUSING CENTER**

Product: Information, education, and counseling for housing consumers  
Market Segment: Low- and moderate-income

**OREGON CORPORATION FOR AFFORDABLE HOUSING (OCAH)**

Product:           Housing production support and technical assistance  
                      Capital generation for tax-credit purchase  
Market Segment:   Low-income

**STATE OF OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT (HCS)**

Product:           Permanent financing through bonds  
                      Gap funding through the Housing Trust Fund  
                      Oregon and Federal Low-Income Tax Credits  
Market Segment:   Very low- and low-income rental and homeownership

## **PROCESS**

In developing this Annual Update for the *Consolidated Plan*, information was gathered from a variety of sources. Opportunities for public testimony on housing and community development needs were offered at the February 2004 monthly HCDC meetings. The *Action Plan FY 2004-2005* was distributed for public comment on March 26, 2004 and was posted on the City of Portland's website at the same time. Copies were mailed to the City's reference librarians on March 26, 2004. Public comments on the *Action Plan FY 2004-2005* were accepted for more than 30 days, through May 5, 2004. The final public hearing on the *Action Plan FY 2004-2005* was held on May 5, 2004. At that hearing, HCDC recommended that the three jurisdictions approve this *Action Plan FY 2004-2005*.

### **CITY OF GRESHAM**

The City of Gresham supports a Community Development and Housing-Citizen Advisory Committee (CDHC) as a means of providing regular public input regarding Gresham's housing and community development programs and policies. The committee meets monthly except for July and August and all meetings are publicized and open to the public. Meeting agendas are available on the City's web site and are also routinely mailed to neighborhood organizations, including low and moderate-income areas of the city.

The City of Gresham conducts an open competitive project solicitation process to develop its annual Action Plan. The CDHC guides the selection of projects and provides substantive input into program design. The process begins in October or November with the CDHC recommending to City Council funding targets for public services, public facilities and housing consistent with the Plan. Council acts on this recommendation in November or December.

Gresham conducts an application workshop in January in conjunction with Multnomah County. The competitive process is advertised by a direct mailing to interested parties such as non-profits, neighborhood-based groups and others. The process is also advertised by a newspaper ad and posted at the Gresham libraries. Applicants are informed of program objectives, eligible project activities, rating criteria, and opportunities for input. In January 2003, the application workshop was delayed until January 12 due to weather conditions, and applicants had 21 days to complete the applications, as they were due February 2. Staff is available to assist and answer questions during that application period.

Staff reviews applications for threshold eligibility. Written applications are reviewed and scored by CDHC members and a panel of people with specialized expertise or knowledge in relevant fields. CDHC holds public hearings to receive testimony on the applications. Public notices announcing the hearings and describing the potential projects are issued and published in the *Gresham Outlook*. The CDHC reviews summaries of the testimony, ratings and rankings to make its final recommendation to Council. In May, the City Council conducts a duly advertised public hearing and adopts an *Action Plan*.



Several public hearings occur as part of this process. In October 2003, the CDHC conducted a public hearing on last year's performance and potential ideas for future use of funds. In March 2004, the CDHC held a public hearing to obtain testimony on potential projects. In May 2004, Gresham City Council held a public hearing on the final *Action Plan FY 2004-2005*. HCDC held a public hearing in March 2004 on the draft *Action Plan FY 2004-2005*, including Gresham's section.

## **MULTNOMAH COUNTY**

Multnomah County supports an advisory committee composed of official representatives from the participating consortium jurisdictions: Fairview, Maywood Park, Troutdale, Wood Village and Lake Oswego. This advisory committee oversees the policies and project selection of CDBG and HOME funded projects. This Policy Advisory Board (PAB) meets at strategic times throughout the year, and all meetings are publicized and open to the public.

Multnomah County conducts an open competitive project solicitation process to develop its *Action Plan*. In partnership with the City of Gresham, an application workshop was held in January. The competitive process was advertised by a direct mailing to interested parties such as nonprofits, neighborhood-based groups, and others. The process was also advertised by a newspaper ad and was posted at area libraries. Applicants were informed of program objectives, timelines, eligible project activities, rating criteria and opportunities for input. Applicants had approximately four weeks to complete the applications. Staff was available to assist and answer questions during that period.

Staff reviewed applications for threshold eligibility, as described in the application packet. County staff reviewed and rated written applications. The PAB reviewed the staff recommendations and produced a final list of recommended CDBG/HOME projects. The PAB held public hearings to receive testimony on the applications. Public notices announcing the hearings and describing the potential projects were issued.

The Board of County Commissioners holds a final public hearing and then adopts the Annual *Action Plan*. It is then submitted to HUD 45 days before the start of the new program year.

The Multnomah County Housing Program - working with other local jurisdictions - catalyzes, coordinates and issues periodic RFP's for special needs housing development by independent developers and developer-providers utilizing surplus lands and/or Strategic Investment Program Community Housing funds. The process is open and competitive. Applications are written and reviewed by both County and partnering agency staff.

## **CHANGES TO THE FIVE YEAR CONSOLIDATED PLAN**

### **GENERAL CHANGES**

There were no general changes to the Consortium's Five Year Strategic Plan.

### **MULTNOMAH COUNTY CHANGES**

There were no changes to the Multnomah County Five Year Strategic Plan.

### **GRESHAM CHANGES**

The City of Gresham has no formal amendments to the Consolidated Plan. However, a copy of a recently released Statistical Profile of Poverty in Gresham, produced by the Community Development and Housing Committee, is appended to this document as an addition to the Consolidated Plan to enrich the data in the Comprehensive Plan with more recent descriptive information about people experiencing economic poverty in Gresham from the 2000 Census.

Gresham notes the November 2003 voter approval of the Urban Renewal Plan for Rockwood-West Gresham, which includes a neighborhood with a high concentration of low and low-moderate income persons. The twenty-year plan provides a bond cap of up to \$92 million to finance physical improvements to the district. By City statute, Gresham City Council serves as the Gresham Redevelopment Commission.

### **PORTLAND CHANGES**

The City of Portland Bureau of Housing and Community Development is completing a new strategic planning process. The new BHCD strategic plan will be described in detail in the Consolidated Plan 2005-2010. The plan contains a new mission: [m]ake Portland a more livable city for all by bringing low-income people and community resources together. The plan also contains three new strategic objectives: (1) End the institution of homelessness; (2) Increase the range of housing opportunities for low-income people; and (3) Expand opportunities for low-income residents to improve their economic condition. Significant budget changes relating to the new plan will be phased in beginning in the 2005-2006 Action Plan.

## **HOUSING MARKET ANALYSIS: 2004 UPDATE**

### **OVERVIEW**

The recent national recession and the weak recovery has been felt most acutely here in the Pacific Northwest. For a number of months, the Portland-Vancouver metropolitan area posted the highest unemployment rate among metropolitan areas in the nation, and both Oregon and Washington have generally led the nation in unemployment with little substantial relief in sight. The Portland metro area ended 2003 down 12,5000 jobs from 2002, a decline of 1.3 percent. Hardest hit industries included manufacturing, professional and business services, construction and trade, transportation, and utilities. Employment losses in high-technology industries accounted for nearly 50 percent of the loss in the manufacturing sector during the period.

Due in part to continued population growth, education and health services bucked the downward trend, adding 2,200 jobs in 2003. Overall job losses in 2003 were milder than in 2002. The metro area ended 2003 with a revised unemployment rate of 8.5%, down from the year-ago rate of 9 percent.

Despite a slow economy, the Portland metro area continues to attract inward migration, which has kept housing demand strong. Based on data from the Realtors Multiple Listing Service from January through November 2003, there was a 10.8 percent increase in pending sales and a 13.1 percent increase in closed sales compared to the same period in 2002. The median sales price in the first half of 2003 was \$180,000, up 5.3 percent from a year earlier. New listings in Clark County were almost as strong as Portland's, with a 13.1 increase in May 2003 over May 2002. In the same period, pending sales soared 27.7 percent.

Except for a blip in tax credit funded apartment projects, building permits for both single-family and multi-family units have declined from the high levels of the 1990s and the supply of recently built apartments has created a buyer's market in the western suburbs. In contrast, the market for apartment and condominiums remains tight within Portland's Central City and nearby neighborhoods.

In spite of the slow economic recovery expected for Oregon and the Portland region, long term assessments by local economists are optimistic about the potential for continued economic growth in the future. The attempt by the Governor and a Statehouse to create bi-partisan solutions to our current funding and tax problems offers some hope for beneficial structural reforms.

## **HIGHLIGHTS OF THE 2003 CHAS DATA:**

The U.S. Department of Housing and Urban Development (HUD) has requested that the U.S. Census Bureau tabulate Census 2000 data to create variables that will not be available through standard Census products. These "special tabulation" data, also known as the Comprehensive Housing Affordability Strategy (CHAS) data, are needed to assist local government with housing planning as part of their Consolidated Planning process. An initial draft of the data has been made available to jurisdictions for their review and comment.

The majority of Portland's low-income households are single member households. To qualify as low-income, a single member household needs to have a gross income of less than \$23,050 per year. Other family types that dominate the low-income population are elderly households and small households with two to four members.

Seventy-two percent of low-income households rent their housing. Twenty-eight percent of low-income households are homeowners. Over half of Portland's low-income homeowners are elderly.

Regardless of whether they are renters or homeowners, households earning less than 30 percent of median income who pay more than 50 percent of their income for rent can be considered "at risk of homelessness." It is for these households that unanticipated medical expenses, the loss of a job, house repairs, etc, can make the difference between making a mortgage or rent payment or not. Historically, elderly households have had the lowest cost burden of any type of household in Portland. This is no longer true. Today Portland's small population of large related households has the lowest cost burden of any household type. Thirty-nine percent of Portland's low-income large households are at risk of homelessness as compared to 68 percent of Portland's low-income elderly households. Seventy-four percent of Portland's small households are at risk of homelessness. Sixty-seven percent of Portland's low-income single households are at risk of homelessness.

Seventy-seven percent of Portland's low-income households are white. Ten percent of Portland's low-income households are African American and 5 percent of Portland's low-income households are Hispanic. Most of Portland's low-income Hispanic and African American households are family households.

Eighty percent of Portland's low-income African American population rents housing. Eighty-six percent of Portland's low-income Hispanic population rents housing.

In contrast to Portland's low-income Hispanic and African-American households, most of Portland's low-income white households are single member households. Sixty-eight percent of Portland's low-income white population rent housing.

**FAMILY TYPE**
**TABLE 1: LOW INCOME FAMILY TYPES: PORTLAND 2000**

Family Type	Low Income Households (<=50% MFI)	Other Households (>=50% MFI)	Total Households	Percent of Cohort that is Low-Income	Percent of Total Households that are Low-Income
Elderly One and Two Member Households	15,264	24,988	40,252	38%	7%
Small Related Households (Two to Four Members)	13,142	70,118	83,260	16%	6%
Large Related Households (Five or More Members)	3,771	12,223	15,994	24%	2%
All Other Households (Single Members)*	22,248	56,483	78,731	28%	10%

Source: HUD 2003 CHAS Data

**TENURE**
**TABLE 2: LOW INCOME RENTERS: PORTLAND 2000**

Family Type	Low Income Households (<=50% MFI)	Other Households (>=50% MFI)	Total Households	Percent of Cohort that is Low-Income	Percent of Total Households that are Low-Income
Elderly One and Two Member Households	15,264	24,988	40,252	38%	7%
Small Related Households (Two to Four Members)	13,142	70,118	83,260	16%	6%
Large Related Households (Five or More Members)	3,771	12,223	15,994	24%	2%
All Other Households (Single Members)*	22,248	56,483	78,731	28%	10%

Source: HUD 2003 CHAS Data

**TABLE 3: LOW INCOME HOMEOWNERS: PORTLAND 2000**

Family Type	Low Income Owner Households (<=50% MFI)	Other Owner Households (>=50% MFI)	Total Owner Households	Percent of Cohort that is Low-Income
Elderly One and Two Member Households	7,880	20,688	28,568	28%
Small Related Households (Two to Four Members)	3,150	52,210	55,360	6%
Large Related Households (Five or More Members)	1,248	8,993	10,241	12%
All Other Households (Single Members)	3,133	24,630	27,763	11%
<b>Total</b>	<b>15,411</b>	<b>106,521</b>	<b>121,932</b>	

Source: HUD 2003 CHAS Data

**HOUSING COST BURDEN**
**TABLE 4: HOUSEHOLDS AT RISK OF HOMELESSNESS: PORTLAND 2000**

Family Type	Very-Low Income Renters at Risk of Homelessness	Very-Low Income Homeowners at Risk of Homelessness	Total	Percent of Total Households that are Low-Income
Elderly One and Two Member Households	6,410 42%	3,940 50%	10,350	7%
Small Related Households (Two to Four Members)	7,490 57%	2,300 73%	9,790	6%
Large Related Households (Five or More Members)	791 21%	711 57%	1,502	2%
All Other Households (Single Members)*	12,681 57%	2,193 70%	14,874	10%

Source: HUD 2003 CHAS Data

**RACE**
**TABLE 5: LOW INCOME AFRICAN-AMERICAN HOUSEHOLDS: PORTLAND 2000**

Family Type	Low Income Households (<=50% MFI)	Other Households (>=50% MFI)	Total Households	Percent of Cohort that is Low-Income	Percent of Total Black Households that are Low-Income
Elderly One and Two Member Households	996	757	1,753	57%	8%
Family Households	2,782	4,112	6,894	40%	23%
All Other Households (Single Members)*	1,574	1,811	3,385	46%	13%
	5,352	6,680	12,032		

**TABLE 6: LOW INCOME HISPANIC HOUSEHOLDS: PORTLAND 2000**

Family Type	Low Income Households (<=50% MFI)	Other Households (>=50% MFI)	Total Households	Percent of Cohort that is Low-Income	Percent of Total Hispanic Households that are Low-Income
Elderly One and Two Member Households	95	256	351	27%	1%
Family Households	1,610	3,900	5,510	29%	19%
All Other Households (Single Members)*	831	1,764	2,595	32%	10%
	2,536	5,920	8,456		

Source: HUD 2003 CHAS Data

**TABLE 7: LOW INCOME WHITE HOUSEHOLDS: PORTLAND 2000**

Family Type	Low Income Households (<=50% MFI)	Other Households (>=50% MFI)	Total Households	Percent of Cohort that is Low-Income	Percent of Total White Households that are Low-Income
Elderly One and Two Member Households	13,972	23,627	37,599	37%	8%
Family Households	10,121	66,455	76,576	13%	6%
All Other Households (Single Members)*	17,743	49,875	67,618	26%	10%
	41,836	139,957	181,793		

Source: HUD 2003 CHAS Data

## HOMEOWNERSHIP TRENDS FOR ETHNIC MINORITIES:

According to the Brookings Institution recent report *Portland In Focus: A Profile from Census 2000* homeownership rose in Portland during the 1990s for only some groups, and housing costs increased substantially for renters. "Portland experienced a considerable rise in its homeownership rate during the 1990s, and 56 percent of its residents owned their own home in 2000. Gains among the city's white and Asian households drove these increases, however. The homeownership rate for blacks remained the same, and that for Hispanics dropped, perhaps owing to recent immigration. At the same time, in-migration to Portland and rising household incomes in the 1990s produced a rapid run-up in rents. Median rental costs increased 19 percent between 1990 and 2000."

**TABLE 8: YEAR 2000 HOMEOWNERSHIP RATES BY ETHNIC GROUPS IN MULTNOMAH COUNTY**

Ethnic Group	Homeownership Rate
Total	56.9%
White	59.8%
Native American	35.5%
African American	38.0%
Asian	58.0%
Hispanic	28.5%

Source: 2000 Census



## **HIGHLIGHTS OF THE REGIONAL HOUSING MARKETS**

According to the Realtors Multiple Listing newsletter, the median sales price of single-family homes in the Portland metro area for the summer of 2003 was \$180,000. Within regional submarkets West Portland had the area's highest median home sales price, \$255,000, while North Portland prices were the lowest at a \$146,000 median. The three areas with highest appreciation were West Portland, where prices are 9.4 percent higher in the summer of 2003 than in the year prior to that time; Southeast Portland, which experienced 7.9 percent appreciation; and North Portland, which logged 6.4 percent appreciation.

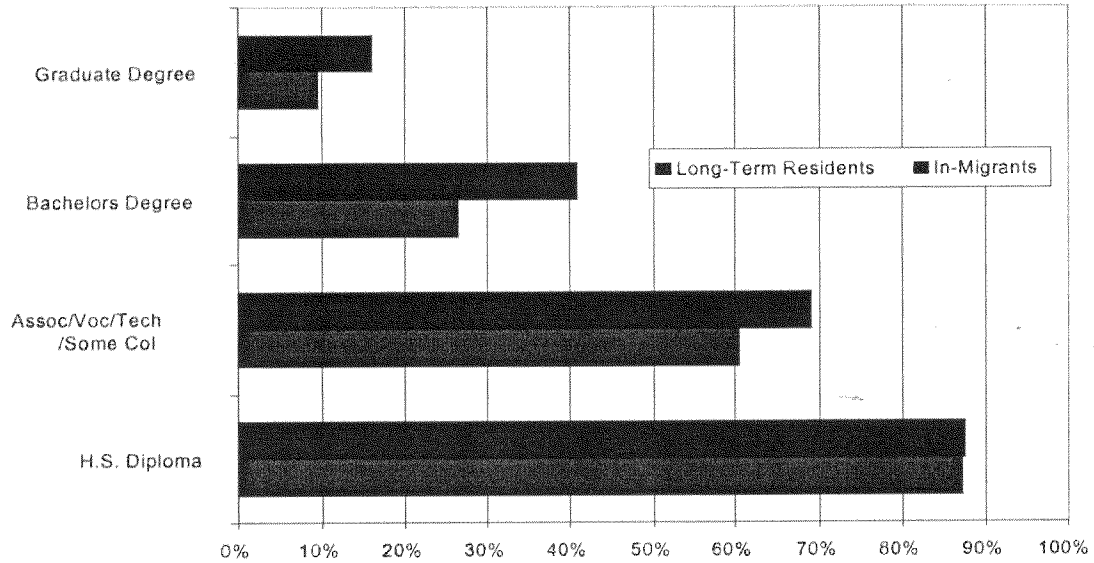
A bright spot in the local economy continues to be the strength of residential construction and home purchasing aided by the low interest rates. These rates affected by the decisions of the Federal Reserve Board, continue to stay at or below 6.0 percent for fixed rate, 30 year mortgages.

However, these favorable housing market conditions do not help a family whose members are unemployed. Subsequently, the local region has seen a dramatic increase in families and individuals seeking assistance from local food banks. The federal government has extended unemployment benefits for those who remain jobless.

Regionally, the buyers' market also applies to rentals particularly in the overbuilt Washington County area. However, demand remains strong for close in apartments and affordable rentals in East Portland and Gresham. The level of new construction activity has declined dramatically everywhere in the region and absorption of online units has occurred. However, major new assisted and market rate projects will go on the market in the West End of Downtown Portland and the Pearl District remains an active market for new construction.

An encouraging trend in the current economy is the region's continuing attraction to younger and well-educated households. Despite the recession, this trend appears to be holding into the current year. Below, is a table showing the relative education levels of newcomers to Multnomah County compared with those who lived here prior to 1995.

TABLE 9: EDUCATIONAL ATTAINMENT OF MULTNOMAH COUNTY LONG-TERM RESIDENTS



American Community Survey. "In-migrant" = moved to County in last 5 years.

AND IN-MIGRANTS

## **ADOPTION OF THE REGIONAL AFFORDABLE HOUSING STRATEGY**

A significant development in the regional arena of planning and growth management was the adoption of the Regional Affordable Housing Strategy (RAHS) in January 2001. The RAHS represents several years work by Metro and local jurisdictions, including Multnomah County, Portland and Gresham, to come to terms with the disparities in the regional housing market and the differing levels of public response to long held goals of equal housing opportunity in the region. The RAHS establishes voluntary goals and does not provide funding to implement the goals. The impact of the RAHS remains to be seen but there is evidence of increased investigation by many communities into strategies that can bring about a greater range of affordability within local communities.

The year 2003 marked the second reporting period for local jurisdictions to document progress made in furthering affordable housing opportunities. Metro is currently tallying the results of the second round of reporting by local jurisdictions on progress made in accepting the voluntary affordability goals and any policies and regulatory or funding tools considered, adopted, or rejected by local governments.

Metro is planning to convene a new regional work group in the Fall of 2004 to examine the regional progress towards meeting the RAHS.

## **IMPACT OF STATE SUPREME COURT DECISION ON TAX INCREMENT FINANCING**

On December 20, 2001, the Oregon Supreme Court reversed an Oregon Tax Court decision regarding how urban renewal taxes are categorized under the property tax limitations passed by Oregon voters in the 1990s. The Supreme Court ruled in the *Shilo Inn* case that the method of calculating available tax increment revenue on assessed value relied on by the Portland Development Commission and other redevelopment agencies across the state was unconstitutional. This ruling could have had a dramatic effect on the ability of Portland and other cities to use tax increment financing as an effective housing and community development tool. The negotiated settlement of the case was approved by the Tax Court in 2003. The overall impact of the *Shilo Inn* decision is to reduce the revenues available for investment in urban renewal districts.

## **ENERGY CRISIS**

Low-income households in the Portland area have been dramatically affected by some of the highest utility rates in the Northwest. Home heating oil prices have increased modestly, but gasoline prices have risen dramatically. The bankruptcy of Portland General Electric's parent company, Enron, has produced no firm buyers for the utility at this writing, although several potential buyers have declared interest. The Bonneville Power Administration announced a wholesale price increase beginning in October 2003, that has had significant impacts on low-income households that reside in Public Utility Districts. Low-income households that live in utility areas served by Portland General Electric, PacifiCorp, Northwest Natural Gas, and Avista Gas) can seek energy assistance and weatherization funds from public purpose funds maintained by these utilities. However, due to the struggling economy and high unemployment, these funds are oversubscribed. There is a continuing need for public education on energy efficiency and conservation options.

## **SOURCES**

*Commercial Real Estate Market Report, Portland Metropolitan*, Second quarter, 2001, Norris, Beggs & Simpson  
*U.S. Housing Market Condition, Second Quarter 2002: Regional Activity, Portland-Vancouver, Oregon-Washington*, November 25, 2002  
*Portland Metro Labor Trends*, State of Oregon Employment Department, January 2002  
*The Millette Rask Report*, Fall/Winter 2002  
*New Economy Observatory*, PSU Institute for Metropolitan Studies, October 2001  
*Real Estate Report for Metropolitan Portland, Oregon*, Neal Higgins, Autumn 2002  
*Market Action*, Realtors Multiple Listing Service, June 2002  
*Metroscape*, PSU Institute for Metropolitan Studies, Winter 2002

# ANNUAL PLAN RESOURCES

## RESOURCES

TABLE 10. ESTIMATED RESOURCES (CONSORTIUM WIDE) 2003-04

Resources	Portland	Gresham	Multnomah County	Total
HOME				
* Entitlement	\$4,005,507	\$659,633	\$185,287	\$4,850,427
* Program Income	250,000	60,000	0	310,000
* ADDI	570,733	0	0	570,733
* Carry Over	0	19,400	0	19,400
CDBG	0	0	0	0
* Entitlement	12,105,000	1,067,000	360,000	13,532,000
* Program Income	2,150,000	20,000	30,000	2,200,000
* PLPA	0	0	0	0
* Carry Over	1,720,000	75,000	0	1,795,000
Emergency Shelter Grant	452,707	0	0	452,707
HOPWA (6 county metro area) <sup>1</sup>	1,006,000	0	0	1,006,000
EDI	0	0	0	0
*Regional Housing Affordability Pilot Program <sup>2</sup>				
Lead Based Paint Grant	0	0	0	0
* Carry Over	12,934	0	0	12,934
Housing Counseling	0	0	0	0
CSH Grant	314,889	0	0	314,889
TOPS Grant	0	0	0	0
Youthbuild	0	0	0	0
* Carry Over	400,000	0	0	400,000
McKinney Homeless Assistance	5,049,613	0	0	5,049,613
Housing Authority of Portland	0	0	0	0
* Section 8	0	0	49,460,519	49,460,519
* Public Housing Operating Grant	0	0	6,785,712	6,785,712

<sup>1</sup> HOPWA funds are administered by the City of Portland on behalf of the seven-county Portland EMA.

<sup>2</sup> This Economic Development Initiative grant is for the Portland-Vancouver Regional Housing Affordability Pilot Program. The funds are administered by the City of Portland on behalf of the following entitlement jurisdictions (Cities of Portland, Beaverton, Hillsboro, Gresham, and Vancouver, WA, and Counties of Multnomah, Clackamas, Washington and Clark, WA, and the local Public Housing Authorities; Multnomah, Washington, Clackamas and Clark (Vancouver, WA)).

**Action Plans FY 2004-2005****Draft ONE YEAR ACTION PLAN**

<b>Resources</b>	<b>Portland</b>	<b>Gresham</b>	<b>Multnomah County</b>	<b>Total</b>
* Public Housing Capital Grant	0	0	4,681,549	4,681,549
* Public Housing Tenant Rents	0	0	4,447,568	4,447,568
* Drug Elimination	0	0	0	0
Congregate Supportive Housing	0	0	487,726	487,726
EDSS Supportive Services	0	0	45,000	45,000
Apprenticeship Programs	0	0	144,000	144,000
ROSS-Homeownership Program (GOALS)	0	0	687,868	687,868
* Service Coordinators	0	0	215,642	215,642
ROSS Neighborhood Networks	0	0	83,312	83,312
Other Local	0	0	0	0
* General Fund	2,673,779	13,385	0	2,687,164
General Fund Special Appropriations	0	0	0	0
Tax Foreclosed Properties	0	0	500,000	500,000
Brownfield Showcase Carryover	0	0	0	0
Brownfields	0	0	0	0
Water Bureau Lead Abatement	0	0	0	0
* Housing Investment Fund	492,716	0	0	492,716
* PILOT	334,820	0	0	334,820
* Strategic Investment Program.	0	0	500,000	500,000
* Tax Increment Funds	0	0	0	0
<b>TOTAL</b>	<b>\$31,538,698</b>	<b>\$1,914,418</b>	<b>\$68,614,183</b>	<b>\$102,067,299</b>

**EMERGENCY SHELTER GRANT (ESG) MATCH**

The City of Portland will more than match the 2004 ESG award of Four Hundred Fifty Two, Seven Hundred and Seven Dollars (\$452,707). In FY 2003-04, the City put a minimum of \$800,000 in CDBG funds for homeless programs receiving ESG, and an additional \$623,000 in the other homeless programs in the system. Further, the City contributed \$1.5 million dollars of General Fund into the homeless services system, including operating support for shelters and transitional housing.

**HOME INVESTMENT PARTNERSHIP PROGRAM****HOME Match**

The Portland HOME Consortium expects the match obligation generated by its proposed use of funds to be approximately \$ 1,000,000. Key resources which will be used to meet match requirements include grant funds from the State Housing Trust Fund, the value of below-market private financing under the Oregon Affordable Housing Tax Credit Program, the value of donated property and donated labor, property tax abatement in distressed neighborhoods, local funding allocated to support HOME-assisted projects and property tax exemption for low-

income housing owned by charitable nonprofits, and building permit fee waivers. The Consortium has successfully met and exceeded match obligation in prior years from these sources and anticipates sufficient carry-over match to meet its obligation.

The HOME Program has successfully leveraged both public and private resources for affordable housing. Many projects have received funding from State, County, and other City sources. The jurisdiction also used HOME funds in combination with Low Income Housing Tax Credit (LIHTC) to attract private equity to projects. In addition, most projects, except those serving the lowest income populations, have been able to use private debt as a funding source.

## **ACTIVITIES TO BE UNDERTAKEN**

In 1991, the Cities of Portland and Gresham and Urban Multnomah County formed a Consortium. The first Comprehensive Housing Affordability Strategy (CHAS) was developed on a countywide basis. As part of that process, and after extensive citizen involvement, the jurisdictions adopted certain principles and priorities. In December 1993, HCDC further defined the CHAS priorities and strategies. These principles and priorities were reaffirmed in the *Consolidated Plan 1995-1999*, and modified in May 1997 and April 1998. As part of developing the *Consolidated Plan 2000-2005*, HCDC reviewed and revised the principles and fine-tuned the priorities. In 2001, HCDC added specific references to farm workers as a special needs population; clarified that preservation of housing stock includes addressing any lead-based paint hazards; and established that revitalizing severely distressed public housing is a local priority. HCDC decided not to make any changes for FY 2004-05.

### **PRINCIPLE I**

*Priorities should focus on developing and preserving housing for those with the greatest needs.*

- Those with the greatest need include people who are homeless, living in dangerous environments, or in substandard housing that violates safety codes.
- Those with the greatest need also include people who have historically had limited access to housing and those particularly vulnerable to housing loss. Among these are very low-income single parents, youth, people leaving foster care, the elderly, and members of racial/ethnic/cultural minorities, refugees, farmworkers, and persons who have mental or physical disabilities.

### **PRINCIPLE II**

*Both public and private resources are required to meet community housing needs.*

- Public housing resources should be directed to housing for those with the greatest need.
- Public moneys may also be used to stimulate private investment and fill affordability gaps.

- Participation of the philanthropic sector in public-private partnerships should be encouraged.
- Market-driven private financing should be the primary source for meeting all other housing needs.

### **PRINCIPLE III**

*There should be a direct relationship between the amount of public investment and the number of units affordable for a minimum of sixty (60) years.*

- Maximizing the number of unit years of affordability is an important use of public investment.
- As a condition of receiving public investment, designated affordable units should remain affordable for a minimum of 60 years.
- The number of rental units designated to remain affordable should be balanced with the subsidy to the project, so that programs are marketable to private for-profit and nonprofit developers.
- Preference should go to programs that increase or preserve the affordable housing inventory, rather than programs that subsidize ongoing costs.
- Sufficient public resources should be invested to assure that affordable housing is designed, constructed, managed, and maintained so that it will be an asset to the community over the long term.

### **PRINCIPLE IV**

*The goals of public investment in non-housing community development ("community development") should be economic vitality; safe and stable neighborhoods; thriving families; and access to opportunity for all residents.*

- Public investment in community development at the neighborhood level should focus on neighborhoods that have not shared in the recent economic expansion, and on residents who have faced or are facing involuntary displacement as a result of neighborhood revitalization.
- Public investment in community development should focus on removing barriers to employment, retaining jobs in neighborhoods, and providing adults and youth with access to opportunities to earn at least a living wage.
- Public investment in community development should support the goal of having essential goods and services available for low-income people in their local communities.



- Public investment in community development should support asset-building programs to build the wealth of low- and very low-income residents (household income 0-60% MFI).

## **PRINCIPLE V**

*To make the best use of existing affordable housing resources, a continuum of services must be available to assist individuals and families in locating, obtaining, and maintaining decent stable affordable housing.*

- Persons with the greatest need should receive supportive services that will enable them to stay in housing.
- Supportive services should be designed to promote the greatest degree of economic independence and self-sufficiency appropriate for the individual.
- Services for locating, obtaining, and maintaining decent, stable, affordable housing should be readily available.

## **PRIORITY 1**

Programs to provide affordable rental housing for *homeless* individuals and families, *very low-income* (0-50 % Median Family Income (MFI)) households, and households suffering under an extreme rent-burden (paying more than 50 percent of their income for housing). This priority includes housing for low-income persons with special needs, such as people with mental and physical disabilities, people with AIDS, the elderly, and farmworkers. Preference should be given to programs that include housing for *extremely low-income* (0-30% MFI) households, and/or address the need for units with at least three (3) bedrooms.

## **PRIORITY 2**

Programs focused on:

- (1) maintaining and preserving housing stock for *low-income* people (up to 80% MFI), including addressing any lead-based paint hazards;
- (2) stabilizing low-income neighborhoods using housing and community development tools;
- (3) providing services to assist *low-income* (up to 80% MFI) individuals and families in locating, obtaining, and maintaining housing;
- (4) providing supportive services, such as housing-related case management, job training, child care, education, etc., for those *very low-income* (up to 60% MFI) individuals with the greatest need; and
- (5) providing services to assist *very low-income* (up to 60% MF) adults and youth with access to opportunities to earn at least a living wage and to build wealth;

(6) revitalizing severely distressed public housing.

### ***PRIORITY 3***

Programs to assist *low-income, first-time homebuyers* (up to 80% MFI). These programs should focus on innovative types of housing and lower-income populations unable to access the market. Homebuyer programs also should be targeted as an important community development tool to reinvest in and/or stabilize neighborhoods. Public funding of these programs should leverage private funds. Homeownership programs should include a mechanism for recapture and/or retention of the public investment.

## THE HOME CONSORTIUM: HOUSING ACTIVITIES

Since the jurisdictions are a consortium only for purposes of the HOME grant, this section shall be limited to activities to be carried out with HOME funds.

The Portland HOME Consortium will use the FY 2003-2004 HOME Investment Partnership allocation of \$4,868,221 to expand and improve the supply of affordable housing to low- and moderate-income families in accordance with the priorities adopted by HCDC. An agreed-upon formula is used to set aside HOME funds for each Consortium member and to determine equitable contributions for tenant-based rental assistance administrative costs, CHDO operating support and general HOME administration. When the opportunity arises, the Consortium will collaborate on joint projects and system wide programs.

1. **Tenant-based Rental Assistance.** The three jurisdictions will allocate \$246,162 in program funding and \$62,434 in administrative costs for a tenant-based rental assistance program to assist approximately 130 new households. The goal is to use modest amounts of rental assistance to assist households transitioning from homelessness to permanent housing and to prevent homelessness by providing short term assistance to households facing eviction. Forms of assistance would include security deposits, assistance with first and last months' rent, and short term rent subsidies coupled with case management and housing planning assistance. Assistance may also be provided to households in rental projects being rehabilitated under the HOME Program.
2. **Community Housing Development Organizations (CHDOs)**
  - a. **CHDO Projects.** The Consortium will work closely with CHDOs and have set aside \$583,774, 15 percent of the Consortium's HOME program allocation, for CHDO projects. CHDOs will be involved in a number of rental production and rental rehabilitation projects in addition to special needs housing projects and potentially projects benefiting first time homebuyers. CHDOs will be eligible to participate in projects in addition to those in the set-aside and are expected to be active partners in many HOME funded projects.
  - b. **Operating Support.** The HOME budget to provide operating support to CHDOs is \$243,411, five percent of the total grant amount. We have developed a system to distribute this grant funding on a competitive proposal basis through the Portland Neighborhood Development Support Collaborative.
3. **Program Administration.** The Consortium has budgeted approximately \$424,387 for program administration. This category will include administrative costs of managing the HOME program. It also includes some program delivery costs for the consortium members and the tenant-based rental assistance program.

**4. New Construction**

Approximately 80 percent of HOME funds available for production will involve new construction. New construction will be used to meet the needs of large family housing, special needs housing, and development on in-fill sites.

**5. Rehabilitation**

The approximately 20 percent of the funds available for production will involve moderate or substantial rehabilitation. These projects will assist CHDOs, non-profit and for profit developers improve rental housing for low- and moderate-income households including identifying and reducing lead-based paint hazards.

**6. Refinancing Existing Debt**

The Consortium may use HOME funds during FY 2003-2004 to refinance existing debt secured by multifamily housing that is being rehabilitated with HOME funds. The City of Portland is currently completing Community Asset Management (CAM) guidelines. This CAM process has resulted in the City's adoption of refinancing guidelines. These guidelines comply with the requirements of 24 CFR 92.206(b) for refinancing funded by HOME funds. The adopted HOME specific guidelines for refinance related to rehabilitation appear under the program-specific submission section of this Plan.

## **CITY OF PORTLAND ACTIVITIES**

A list of the activities within Program Areas that the City's Bureau of Housing and Community Development will fund during the next fiscal year 2004-2005. Financing for these activities is provided not only with federal funds (HOME, CDBG and HOPWA), but other funding sources. The City of Portland will not be allocating funding to the Housing Investment Fund for FY 2004-05 and will therefore not produce affordable housing at a level sufficient to sustain the level of productivity achieved from 1996-2001. Thus, we expect housing production to decline. New construction will probably be limited to special needs housing, housing for large families, and housing in Urban Renewal Districts (URDs), where Tax Increment Financing is available.

### **1. Housing Program Area**

The Housing Program area includes both capital for housing development as well as social services related to housing. The major focus of the program area is on development of housing opportunities affordable to low-income households, expansion of housing opportunities for special needs populations, and activities that help to promote housing stability for target populations: homebuyer programs, homeowner repair, rental rehabilitation and production, identifying and reducing lead-based paint hazards, and special needs housing. Housing services programs include information and referral, education, fair housing and housing counseling services for low- and moderate-income households, and weatherization programs.

Housing programs respond to the housing needs of low-income individuals and families. They are also key components of targeted neighborhood improvement strategies. Individual programs may be designed to respond to one or both of these needs. Several factors guide the implementation of housing programs as outlined below.

#### **Lead-Based Paint**

All housing programs will continue to be affected by the lead-based paint regulations imposed by HUD effective April 10, 2001. While we do not know the specifics of each project, it is expected that these regulations will have an impact on housing production because the cost per unit will increase.

The City of Portland continues to implement a \$3 million dollar HUD lead-Based Paint Hazard Control grant that provides lead hazard reduction in Clark, Clackamas, Multnomah and Washington counties. It is anticipated that these resources will reduce lead hazards in homes of over 300 low-income households, and protecting over 600 children from exposure to harmful lead paint and dust.

**Community Asset Management**

The Community Asset Management Report, adopted by the Council in February 2001, directs the City to implement efforts to insure that rental housing assisted with public funding provide a stable, durable inventory of housing for the 60-year period of affordability. This involves on-going development and monitoring of the PDC portfolio management system, restructuring older projects that previously received public funding, new policies and guidelines for project origination, and capacity building of project sponsors in asset management. The City of Portland anticipates potential commitments to restructuring the finances of existing projects to total \$2.962 million in FY 04-05. Additionally, BHCD anticipates allocating approximately \$504,093 to support the PDC Asset Management and Loan Servicing programs.

**Market Forces**

In the Portland metropolitan area, vacancies are in the 8 percent range, reflecting much of the rental housing market across the county. Vacancies are expected to remain in this range over the next 12 to 18 months due to the slow economy and several large rental complexes under construction in Hillsboro, Gresham, and Fairview (US Housing Market Conditions, February 2004).

The high vacancy rates across the metropolitan area adversely impacts subsidized affordable housing projects, particularly units targeted to serve households with incomes at 60 percent Median Family Income (MFI). Currently in North Portland and in neighborhoods east of 82<sup>nd</sup> Avenue, "market rents" are at levels affordable to households with incomes between 50 percent and 60 percent MFI. Hence, the subsidized projects with rents scheduled to serve the 50% to 60% income range are not directly competing with market rate properties and experience the same vacancy rates and rental income losses.

**Housing Resource Shifts**

Resources to provide affordable housing are shifting. From 1996-2001, the Portland City Council allocated approximately \$35 million in City general fund to the Housing Investment Fund (HIF) to support the development of affordable housing. This HIF funding has been allocated and the result has been almost 2000 new affordable housing units brought into the marketplace. While this has been a valuable resource, there are no expectations that City Council will make any new or future HIF allocations.

**Designated Areas for Special Activities by a Community-Based Development Organization**

CDBG funds may be used for new construction activities only under certain circumstances:

- The activity must be carried out by a Community Based Development Organization (CBDO); and
- The activity must be within a geographic area designated in comprehensive plans, ordinances or other City-adopted documents where a neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location.

The Bureau and Housing and Community Development annually certifies nonprofit organizations as CBDOs based on guidelines established by HUD.

The City is defining the geographical areas designated for special activities by CBDOs to include the City's urban renewal areas, the Enterprise Community, and neighborhoods designated as Low-Mod Income Neighborhood revitalization project activities of sufficient size and scope to have an impact on the decline of those areas.

A map illustrating the designated areas appears on p. 33.

The City's urban renewal areas, and the Enterprise Community and the Low-Mod Income Neighborhoods all exhibit the following factors:

- Deterioration, inadequate or improper facilities an area of the city that are detrimental to the safety, health and welfare of the community; or
- Unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multi-family residential units; or
- Buildings or structures which are unfit or unsafe to occupy because of a combination of physical deterioration, dilapidation, and obsolescence; or
- Dislocation, deterioration or disuse of property resulting from faulty planning; or
- A prevalence of depreciated values, impaired investments and social and economic mal-adjustments; or
- A growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare; or
- Any combination of these or similar factors.

The City organizes various responses to ameliorate these factors including designating an urban renewal area, determining a target area for economic development and enhancement, designating "distressed areas" for tax abatements, and working with HUD to define and implement plans in Portland's Enterprise Community area. The City dedicates tax increment funds, general funds, bond funds, lost revenue, federal funds and undertakes resources development tasks in a strategic, planned and organized effort to focus resources to these areas. Typically, the neighborhood revitalization project includes activities of appropriate size and scope to have an impact on the decline of the geographic location. Funds are generally dedicated to housing development and renovation, providing affordable rental housing and home ownership opportunities, street and sidewalk improvements, commercial and economic development, small business development, storefront renovations, acquisition of underutilized

properties for redevelopment, transportation improvements, utility improvements, and/or other services to support local residents and businesses.

Since the City applies numerous factors to determine geographic areas for targeted neighborhood revitalization efforts and since the City works to have a strategic, planned and organized effort to focus resources to these areas, it is appropriate to aggregate existing neighborhood reinvestment goals and objectives for the purposes of designating geographic areas for CBDO special activities. Therefore, the map designating areas for CBDO special activities includes the established neighborhood revitalization activities of:

- 1) Existing Urban Renewal districts as adopted by City Council; and
- 2) Additional block areas adjacent to an Urban Renewal district where the neighborhood revitalization efforts of the urban renewal will have an impact; and
- 3) Neighborhood areas associated with and tangential to the Bureau of Housing and Community Development's Target Area Program; and
- 4) The Federally designated Enterprise Community area.
- 5) Neighborhoods designated as Low-Mod Income Neighborhoods based on the 2000 Census data.

The attached map shows the aggregation of these four areas as "Designated Geographic Areas for Special Activities by Community-Based Development Organizations":

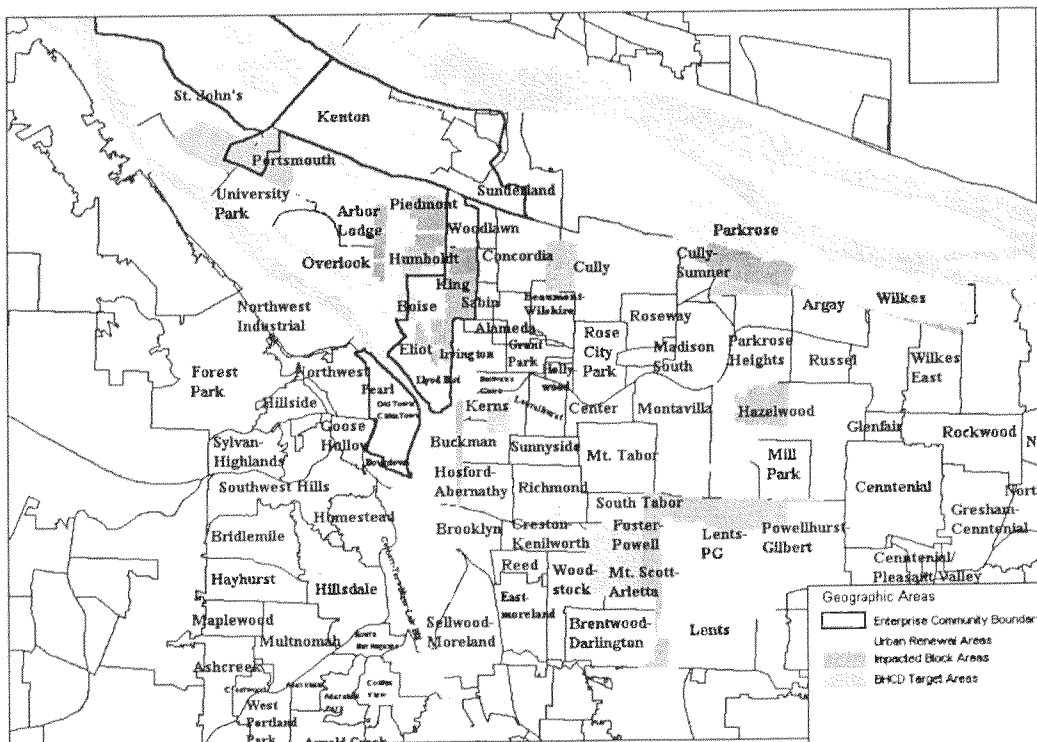
- Airport Way Urban Renewal Area as adopted by City Council and additional areas south to both sides of NE Sandy Boulevard.
- The Parkrose Target Area east and west between I-205 and both sides of NE 122<sup>nd</sup> Avenue; north and south between both sides of NE Sandy Boulevard and both sides of NE Prescott Street.
- Central Eastside Urban Renewal Area as adopted by City Council and additional areas in the Hosford-Abernathy, Buckman and Kerns neighborhoods east to both sides of SE 12<sup>th</sup> Avenue from both sides of SE Powell to Interstate 84.
- The Kerns Target Area east and west between both sides of 29<sup>th</sup> Avenue and both sides of 12<sup>th</sup> Avenue; north and south between both sides of NE Sandy Boulevard and both sides of SE Stark Street.
- Downtown Waterfront Urban Renewal Area as adopted by City Council.
- Gateway Urban Renewal Area as adopted by City Council and additional areas in the Hazelwood neighborhood east to both sides of SE 122<sup>nd</sup> Avenue and south to both sides of Burnside Street.
- Interstate Urban Renewal Area as adopted by City Council and additional areas in the Humboldt and Piedmont neighborhoods north to both sides of Columbia Boulevard between both sides of N. Albina and both sides of Martin Luther King Jr. Blvd., and in the Overlook and Arbor Lodge neighborhoods west to both sides of N. Denver between both sides of N. Prescott Street and both sides of N. Lombard Street.
- Foster-Powell Target Area neighborhood north and south between both sides of Powell Boulevard and both sides of SE Woodstock, and east and west between both sides of SE 76<sup>th</sup> Avenue and both sides of SE 52<sup>nd</sup> Avenue.
- North Macadam Urban Renewal Area as adopted by City Council.
- Oregon Convention Center Urban Renewal Area as adopted by City Council and additional areas in the Irvington neighborhood east to both sides of NE 7<sup>th</sup> Avenue between both sides of NE Rafael Street to both sides of NE Fremont Street, in the Sabin,



- King and Humboldt neighborhoods east to both sides of NE 15<sup>th</sup> Avenue between both sides of NE Fremont Street and both sides of NE Killingsworth Street.
- River District Urban Renewal Area as adopted by City Council.
- South Park Blocks Area as adopted by City Council.
- South Waterfront Urban Renewal Area as adopted by City Council.
- Cully – Concordia 42<sup>nd</sup> Avenue Target Area north and south between both sides of NE Holman and both sides of NE Prescott, and east and west between both sides of NE 37<sup>th</sup> Avenue and both sides of NE 47<sup>th</sup> Avenue.
- The Portland Enterprise Community area as adopted by City Council and the U.S. Department of Housing and Urban Development, including portions of the St. Johns and Portsmouth Target Area neighborhoods; in St Johns north and south between both sides of N. Ivanhoe Street and both sides of N. Fessenden Street, east and west between both sides of N. St. Louis Avenue and the Burlington Northern rail road tracks; and in Portsmouth neighborhood blocks included in the Interstate Urban Renewal Area.
- Lents Town Center Urban Renewal Area as adopted by City Council and additional areas in the Lents and Powellhurst-Gilbert neighborhoods north to both sides of SE Division Street between both sides of SE 122<sup>nd</sup> Avenue and both sides of SE 72nd Avenue; and one block north and south paralleling both sides of SE Division street up to both sides of SE136<sup>th</sup> Ave.

The list of designated areas will be renewed annually in the context of adopting a new Action Plan.

Designated Geographic Areas for Special Activities by a Community-Based Development Organization



**Housing Programs****Rental Housing**

Portland will use HOME and CDBG to support activities to develop and operate affordable rental housing, including acquisition, refinancing, rehabilitation, new construction, preservation, and asset management. Activities that support rental housing are preformed by a number of different organizations that provide necessary functions across the delivery system.

**Rental Housing Development RFP:** \$250,000 of CDBG and \$1,750,000 of HOME funds totaling \$2,000,000 will be allocated through a competitive RFP process. Funds will be used as financial capital to support the acquisition and rehab or new construction of rental housing projects. Targeted goals related to federal funding have been established by HCDC and adopted by the Portland City Council.

**Preservation:** \$2,000,000 of CDBG funds and \$963,000 of HOME funds will be used to refinance and rehabilitate, and redevelop the Clara Vista project increasing the number of bedrooms to appropriately house low-income families.

**Enterprise Foundation Pre-development Loan Fund Administration:** \$70,000 in CDBG funds will be allocated to staffing activities at the Enterprise Foundation Portland office to support the administration of the Enterprise Pre-development Loan Fund, a pool of private resources used to assist nonprofit affordable housing development with acquisition, pre-development and/or short-term bridge financing in CDBG-eligible projects.

**Special Needs Housing Siting – Office of Neighborhood Involvement (ONI):** \$25,984 in CDBG funds will be allocated to staffing activities at the City's ONI to work directly with neighborhood residents in the siting of special needs housing.

**Housing Development Center (HDC):** \$129,603 in CDBG funds will be allocated to staffing activities at HDC to provide professional services to nonprofit housing development organizations to develop affordable housing projects and manage affordable housing portfolios. Additionally, HDC staff provide technical expert input in the development and refinement of City housing policy, asset management, and program evaluation.

**CDC Capacity Building:** \$511,478 of CDBG funds and \$199,678 of HOME funds will be allocated to support staffing activities at nonprofit community development organizations to undertake new housing development, acquisition and/or rehabilitation activities, and asset management activities. Together with other private funds from the Enterprise Foundation and the Neighborhood Partnership Fund, allocations to individual organizations will be awarded on a competitive basis based on project pipeline and portfolio activity and demonstrated capacity to develop, own and manage affordable housing. CDBG funding will only be used to support CDBG-eligible activities. HOME funding will only be used to support staff activities of certified Community Housing Development Organizations (CHDOs).

**Home Owner Programs**

Portland will use HOME and CDBG to support potential first-time, low-income homebuyers. Activities that support homebuyer programs are preformed by a number of different organizations that provide necessary functions across the delivery system.

**Homebuyer Financial Assistance:** Approximately \$246,000 will be allocated to provide financial assistance to lower income homebuyers. \$246,000 will assist between 5 and 25 households, depending on household income and amount of assistance provided to each household.

**Homebuyer Fairs:** To further fair housing objectives and address the gap in minority homeownership rates, approximately \$24,000 will be allocated to three different homebuyer fairs to provide access, opportunity and education to minority and/or low-income potential home buyers: \$8,000 for the African American Homebuyer Fair; \$8,000 for the Asian Homebuyer Fair; and \$8,000 for the Latino Homebuyer Fair.

**Portland Community Land Trust (PCLT):** \$103,937 will be allocated to support the Portland Community Land Trust homebuyer assistance and acquisition activities. Under the land trust model, homebuyers will take title of the improvement while the nonprofit land trust will take title of the land. The homebuyer and the land trust enter into a 99-year lease agreement that provides the homebuyer long-term and fair rights to occupy the land. In return for that occupancy, security and essential buy down of the initial home buying cost, the homebuyer agrees that if/when they decide to sell the home that it will be sold to another lower income household at an affordable price. In FY 2004/05 PCLT will assist between 8 and 15 households become new homebuyers, depending on additional resources allocated to home buyer financial assistance.

**Portland Housing Center (PHC):** \$107,242 will be allocated to PHC to provide approximately 700 lower income households with homebuyer counseling and/or education.

### **Single-Family Homeowner Rehab**

The portfolio of contracts with organizations that undertake single-family homeowner rehab activities will be divided into two parts in FY2004-05. During the first six-months, the organizations will be awarded one-half of their previous annual amount. Also during this time, BHCD will initiate a planning process to create better services and/or products and to develop a well coordinate delivery system. It is anticipated that the result of the planning process will be 1) a description of services and/or products that accurately and appropriately serve homeowners with incomes below 50% MFI, and 2) a description of the elements and roles within a well coordinate delivery system. These descriptions will be the basis of an RFP process that will be run in the Fall. New funding awards will be made and contracts will begin January 1, 2005.

**Portland Development Commission (PDC) Homeowner Rehab Program, July – December funding:** \$457,500 for financial assistance and \$305,835 for staffing will be allocated to provide financial assistance for the rehabilitation of homes owned by low-income households. Loans are offered to households below 50% MFI city-wide, and to households below 80% MFI in targeted neighborhoods.

**Mini Housing Rehab programs, July – December:** Funding will be allocated among seven community-based “mini-housing rehab” programs to provide in-home repairs and upgrades for low-income homeowners: \$36,378 for the Portland Policy Bureau Home Security Program; \$70,158 for the Senior Job Center; \$54,567 for the Community Energy Project; \$36,378 for Reach CDC Community Builders; \$15,591 for Christmas In April; \$77,953 for Unlimited Choices; and \$20,788 for the Northeast Workforce Center.

**Housing Services**

The City offers a variety of housing services to assist low and moderate-income households secure and maintain affordable housing. Programs are organized under two categories: housing counseling and fair housing, and minor repair programs. Housing counseling and fair housing includes services to assist renters and new homebuyers. Detailed information about funded activities and anticipated outcomes for these services can be found in the Fair Housing section of this *Action Plan*.

**Housing Connections (formerly Portland Area Housing Clearinghouse)**

The City of Portland has used CDBG, HOME, EDI, a grant from the Technology Opportunities Program of the U.S. Department of Commerce, and in-kind City resources to create Housing Connections, a comprehensive housing information clearinghouse. The first component of Housing Connections, the Housing Locator was launched in May 2002. To date, more than 49,000 affordable housing units are represented in the system and over 296,000 searches for housing have been conducted on the site. This project is a successful example of the City working with its regional partners to create and implement a regional solution to address an issue that does not stop at the City's boundaries, limited access to affordable housing. One of the City's partners, the Housing Authority of Portland (HAP) has been designated to provide phone access to Housing Connections information and supported self-help computer stations for the public to access Housing Connections.

Staff will continue to work on developing the next components of Housing Connections. FY 2004-2005 outcomes for this project include:

- The Housing Services Locator will be implemented. This tool allows users to search for housing services that address a variety of housing barriers and issues.
- The On-line Single Rental Application will be implemented. This tool will allow renters to apply to multiple properties with the submission of one electronic form, and optimally, one application fee.
- The client information database to be used by local agencies will be planned and implemented in coordination with the HUD-mandated Homeless Management Information System (HMIS).

**Economic Opportunity**

The Economic Opportunity program area is new, a blend of two previous program areas: economic development and youth involvement and employment. The goal of this program area is to increase the incomes or assets of low-income adults and youth. The Economic Opportunity Program envisions funding strategies that focus on workforce development, entrepreneurship, and equity building to increase the income/assets of low-income youth and adults, and to increase job placement and retention for young adults.

FY 2004-05 is a transition year for these programs as BHCD begins implementation of its new strategic plan. During this year, approximately 60% of the CDBG funds BHCD allocates to the Economic Opportunity objective will be allocated through a Request for Proposal process. The Bureau seeks community development, public and private sector applicants with workforce development, entrepreneurship, and equity building strategies to increase the incomes/assets of their target populations. An advisory committee will review submittals and make recommendations to the Bureau and City Council.

Over the following two fiscal years, all remaining funds within this program area – both CDBG and General Fund - will be awarded by an RFP process, again focused on the common objective of increased incomes and assets.

Two types of financial awards are available through the RFP: one-time planning grants of up to \$50,000, and implementation grants of \$50,000-\$200,000 for multiple years. BHCD anticipates awarding a maximum of five planning grants and six to fifteen implementation grants. The specific number of beneficiaries will not be known until proposals are submitted and awards made; BHCD is anticipating a minimum of 200 low-income residents benefiting via the FY 2004-05 RFP. BHCD anticipates making award announcements by June 1, 2003 for FY 04-05 contracts. BHCD will issue a public notice and amend its Consolidated Plan prior to entering into any contracts with RFP awardees.

Almost all of the program funds in the FY 03-04 community economic development budget are included in the FY 04-05 RFP process; existing contractors will apply for continued funding along with potential new contractors. The only on-going activity will be the NE Commercial District Initiative, which assists the graduated Mississippi, Humboldt, and Alberta Target Areas, as well as MLK, with promotional activities to keep these areas healthy.

Currently funded workforce development, youth employment and involvement, and brownfield programs will receive continuing allocations in FY 2004-05, but have to apply for funding in FY 2005-06.

In workforce development, CDBG resources currently support the following activities at SE Works through worksystems inc.:

- Job training, support services, placement, retention and advancement assistance for adults. Because of the recession, service goals have been significantly exceeded for the last three years; the overuse of the service reduces the degree of individualized service can be given to each client. Additionally, SE Works has had its funding allocation from wsi reduced due to population shifts. Thus, even though an appropriate service goal with current funding would be 1,500, current patterns suggest it will be around 2,500.

The Youth Employment and Involvement Programs within the Economic Opportunity program area emphasize education, employment, and leadership skill development for low-income young people in the Portland area. Services fall into two distinct categories:

- Placement and Support programs, projected to serve 611 youth in FY 2004-2005, operate year-round and provide young people with pre-employment training, career exploration assistance, and support in acquiring and retaining an unsubsidized job. Success is measured by the number of young people acquiring and retaining employment for at least 90 days. The three contractors responsible for delivering these services are funded primarily with City General Funds.

Programs include the Youth Employment and Empowerment Program (YEEP) as well as the Youth Employment Institute's Youth Employment Partnership and Outside In's Youth Employment Program.

- Comprehensive Education, Employment, and Leadership Programs, projected to serve over 200 youth in FY 2004-2005, provide experientially based employment, education, and training opportunities during both summer and year-round programs. The aim of these services is to assist youth in achieving educational, vocational, and life-skills goals. Success is measured by the number of youth who make academic gains, transition to employment or continuing education, and master life skills. Two contractors— one funded with City General Funds, the other with YouthBuild funds— provide these year round services while Worksystems inc. receives City General Funds to support four programs with strong summer components and school year supports.

These year-round programs include Open Meadow Learning Center's CRUE program and Portland YouthBuilders. worksystems programs include IRCO Ready, the Youth Employment Institute's START program, Open Meadow Learning Center Summer CRUE, and the Oregon Council for Hispanic Advancement's Projecto Conexion program.

The primary goal of the City's Brownfield Redevelopment program is to stimulate the redevelopment of contaminated commercial or industrial sites in low-income communities. Utilizing City and EPA funds, the City anticipates five contaminated sites will receive thorough assessments of their environmental problems.

### **Other Activities**

These activities represent programs that do not currently fit under one of the three Strategic Directions but will be continued. Over time these programs will either be phased out or will be redirected to more closely fit into one or more of the Strategic Directions.

- a. The **Community Initiatives Small Grant Program** makes small one-time-only grants to community based organizations to provide services that benefit persons who are low income or are members of a underserved population or community. Projects are chosen through a Request for Proposal (RFP) process twice each year, using a citizen committee to make project-funding recommendations. Activities funded in previous years range from youth education and enrichment activities to community based planning to domestic violence prevention. Each project identifies one or more performance measures that will be tracked but these measures cannot be aggregated due to the wide variety of projects funded. Overall program performance measures for Community Initiatives are: leverage of other resources (match) – currently at 198% of grant funds; project success rate – currently at 89%; and funding to organizations not previously funded by BHCD – currently at 45%.

- b. The **Community Partnership Initiatives Program** provides multi-year assistance to underserved populations and communities to support outreach, leadership development, community based planning, and project implementation. Currently the Program is working with the Latino Network to develop leadership and address issues specifically affecting the Latino Community and low income communities of East Portland. BHCD funds are used primarily to hire part-time staff assistance and administrative support for the projects.
- c. Neighborhood Revitalization Strategy for Designated Enterprise Community

BHCD's Strategic Plan alters BHCD's historic emphasis on geographically based revitalization activities. Thus, FY 2004-2005 is the start of a transition as the City reduces its CDBG support for past revitalization efforts in order to increase its support for people based activities. The focus on revitalization activities, then, is reduced support but not elimination. Though fewer CDBG funds will be allocated for revitalization activities, other City and PDC programs will continue at past levels.

- The *Neighborhood Revitalization Strategy* historically focused on the redevelopment of commercial nodes that had seen disinvestment for most of the 1980s and 1990s. These areas are characterized by blight, poorly maintained and underutilized buildings, and inadequate infrastructure. The City anticipates supporting the following projects during FY 2004-2005 to facilitate redevelopment activities.
- *Brownfield Redevelopment*: A continued effort to redevelop commercial and industrial sites that are idle due to actual or perceived contamination. EPA funds, EDI-108, BEDI, urban renewal funds, and the CDBG float are possible funding sources. However, rather than housing the Brownfield Showcase Program within the Bureau of Housing and Community Development, the Strategic Plan suggests the Program be transferred to another bureau within the City.
- *Urban Renewal*: Capital expenditures along MLK Jr. Blvd. and the N. Interstate Urban Renewal Area will continue to fund housing, economic development, and public facility projects. These capital projects are in addition to continuing programs for smaller storefront facades, and business loans.
- *Implementation of Visioning Projects* on Vancouver-Williams, Fremont-MLK, and MLK-Alberta-Killingsworth: Implementation of comprehensive community efforts that identify the communities' desired future for these three areas will continue, mostly funded by Urban Renewal programs..
- *Anti-Displacement Initiatives*: Efforts to limit involuntary displacement. Due to rising property values, many long-term residents and merchants have been or are potentially facing displacement. The City and PDC have committed to undertake a variety of initiatives to limit involuntary displacement.
- *N. Interstate MAX Line*: Development of a light rail line along N. Interstate.

- *Streetscape Improvements on MLK*, N. Interstate, Killingsworth, and Alberta: Continued improvements along these streets will continue.
- Continuation of a *NE Marketing Strategy* to keep Mississippi, Humboldt, Alberta and MLK commercial areas vital via community events will continue, but at a reduced level of funding.

**Float**

CDBG float is a method to assist in financing projects by providing short-term loans interest-free or at favorable interest rates. Loans are for a maximum of 30 months.

Float loans are available when all of the City's CDBG resources are not needed in the year for which they are budgeted. Federal funds drawn in the year in which they are budgeted but not actually spent in that year can be used on a short-term basis until they are needed for the projects for which they were budgeted.

When float repayments are received, the repayments of principal and interest are considered program income. The program income is used to fund the projects for which the funds were originally budgeted. Any excess is used to fund other projects included in the *One-Year Action Plan*.

The City may, from time to time, and subject to availability of resources, use the float-financing tool for projects. The projects may be public facilities or improvements, acquisitions, rehabilitation, and/or construction. The City will select projects based upon whether the project furthers the principles and priorities expressed in the *Consolidated Plan* and the City's strategic directions.

At such time as the City decides to use the float-financing tool, it will prepare a *Consolidated Plan* amendment and publish it for public comment. The notice will include the name of the float, the intended recipient, the loan amount, the term (not to exceed 30 months), the anticipated program income over the term of the loan, and the form of security for the loan. A copy of the Amendment will be filed with HUD within a reasonable period following its adoption.

Although there've been discussions and explorations into three potential projects, none look viable at this time. Thus, no new float loans are currently planned for FY 2004-2005 at this time.

The City currently has no float loans outstanding. If the City desires to make a float loan, BHCD will summarize it in the form set at **Table 11**.



TABLE 11: OUTSTANDING FLOAT 2003-04

Name of Float Loan:	Project One	Project Two
Recipient of Float Loan:		
Loan Amount:		
Term of Loan:		
Action Plan Describing Use of Funds:		
Date of Amendment to Action Plan:		
Anticipated Program Income over Term of Loan:		
Form of Security:		
Additional Information:		

**EDI/108**

The City's ability to provide loans under the approved Section 108 Loan Guarantee and related Economic Development Initiative Grant concluded in September, 2003. This program was originally approved by HUD in 1998 with a total of \$8,000,000 in loan funds and \$2,250,000 in grant funds. The grant funds were blended with the loan funds to improve the interest rates or other terms of the loans provided to borrowers. Loans under this program supported commercial revitalization projects in the Enterprise Community which resulted in the creation or retention of jobs available to low and moderate individuals.

The City added the Portland Saturday Market under the umbrella of its existing Section 108 Loan Guarantee program. This allowed the City to use the EDI grant to pay interest on the Portland Saturday Market obligation guaranteed under 24 CFR Section 570.703(C). Such assistance is consistent with furthering the City's efforts to carry out economic development activities in support of the City's overall Enterprise Community and Neighborhood Revitalization strategies.

Though the City's original 108 loan authority of \$8,000,000 has terminated, the City may seek new 108 authority for two specific N/NE projects, and access available EDI funds from its "common reserve pool" to make these projects more economically feasible. These two projects had applied for funds prior to September, 2003, but their loans were not completed because they had failed to meet either their pre-leasing or financing conditions of approval.

The two projects are:

- Heritage Project: NE MLK Jr. Blvd. and Shaver. This is a rehabilitation and expansion project of the abandoned Weimer Furniture Building that would result in a total of 23,677 sq. ft. for commercial activities. A loan of \$2,200,000 was sought. The total construction project is estimated to cost \$3,500,000.
- Knauls Business Center (OAME II) : NE Williams and Shaver. This is a new construction project of 49,550 sq. ft., with 10,050 sq. ft. for retail, 34,500 sq. ft. for offices, and 4,000 sq. ft. for conference rooms. The total construction budget is \$8,000,000, with \$3,000,000 sought from an EDI/108 loan.

The City also received a new Section 108 loan guarantee of \$11,457,000 to support the HOPE VI redevelopment project at Columbia Villa. This funding was used for eligible costs related to the redevelopment such as public improvements and demolition. This funding is part of a \$146.5 million project to redevelop Columbia Villa into New Columbia. The City intends to repay the loan from future CDBG allocations (up to \$3.5 million dollars), city capital improvement resources, and tax increment funding from the Interstate Corridor Urban Renewal Area.

This application was independent of the City's other Section 108 loan obligations.

## **MULTNOMAH COUNTY ACTIVITIES**

Multnomah County funds a limited range of housing and community development activities with federal Community Development Block Grant and HOME funds. Though funds available for Program Year 2004-05 have declined due to a reduced CDBG grant, HOME funding available for project allocation remains steady. Both sources of funding are channeled into five program categories.

### **1. Neighborhood Revitalization**

The neighborhood revitalization area includes projects that meet infrastructure needs such as community facilities, street reconstruction, drainage and flood improvements, park acquisition and structure construction, historic preservation, and handicapped access improvements. It is intended that these projects provide for long-term improvements over the course of several years. Individual projects are small but collectively they provide substantial improvements to low and moderate-income neighborhoods. Project sponsors are made aware of the requirement to complete funded projects that within the year have been awarded. For Program Year 2004/05 approximately \$129,769 is available.

### **2. Housing**

The housing program area includes both construction of new housing for special needs populations and rehabilitation work for income eligible persons.

In Program Year 2004/05 approximately \$185,287 is available from the HOME funding source. Though the program requirements differ, new housing construction, rehabilitated housing accessibility improvements, and housing repairs can be provided through one or both of the grant sources. An important federal requirement is the inclusion of actions to deal with lead based paint in all construction projects. This requirement will likely increase the cost of construction activity in many homes or residential facilities built before 1978.

### **3. Public Services**

Public services is the smallest of the program categories to receive funding and is limited by federal regulation at funding not to exceed 15 per cent of CDBG grant funds plus program income. For Program Year 2004/05 this translates to approximately \$58,500. Local program policy states that the emphasis in public services must be on housing related services; fair housing services are specifically targeted. In addition, transitional housing services are critical for homeless populations seeking stability.

### **4. Administration**

General program oversight, environmental reviews, support of the Housing and Community Development Commission, and support for Portland's HOME administrative costs will command not more than 20 per cent of grant and program income. Administrative costs and planning costs should not exceed \$78,000 in CDBG and approximately \$TBD for the HOME grant.

**5. Monitoring and Technical Assistance**

Technical assistance for and monitoring of subgrantees is an important part of the success of Multnomah County's community development program. In a collaborative effort, the City of Gresham and Multnomah County have partnered to start off the new program year with a joint CDBG/HOME application workshop. Staff also works together to offer applicants technical assistance during the development of applications and subsequently works together to evaluate these applications and link funding where possible. Because on-site monitoring is recognized as critical to the completion of successful, compliant projects, Multnomah County undertakes on-site monitoring of projects during the program year. Program areas monitored include project eligibility, financial and grant management systems, regulatory compliance, and project accomplishments.

**TABLE 12. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
HOME INVESTMENT PARTNERSHIP PROGRAM  
2004-2005 CDBG / HOME RECOMMENDED ACTIVITIES**

<b>NEIGHBORHOOD REVITALIZATION:</b>	<b>\$129,769</b>
Project One	
Project Two	
Project Three	
Project Four	
Contingency	
<b>PUBLIC SERVICES:</b>	<b>58,500</b>
Housing Assistance Project, Legal Aid Services of Oregon	
Fair Housing Project, Legal Aid Services of Oregon	
Fair Housing Enforcement, Fair Housing Council of Oregon	
Transitional Housing Program, Human Solutions, Inc.	
<b>HOUSING – HOME:</b>	<b>TBD</b>
Project One	
<b>CONTINGENCY</b>	<b>TBD</b>
Support for public facilities projects	
<b>GENERAL ADMINISTRATION:</b>	
Program Administration	<b>78,000</b>
Housing and Community Development Commission	<b>7,891</b>

**Total CDBG Resources:**

2003-04 CDBG Grant	360,000
Program Income	30,000

*Total HOME Resources after set-asides funded:*

## CITY OF GRESHAM ACTIVITIES

Annually the City of Gresham publicly solicits applications for activities to be undertaken using available CDBG and HOME funds. In November, Gresham City Council, through a recommendation of the Community Development and Housing Committee, established eligible activities and set funding targets, subject to funding availability. A workshop was held in January (January 12, 2004), and applications were due on February 2, 2004. The Community Development and Housing Committee and a Technical Assistance Panel reviewed the applications. The CDHC held public hearings in March (March 3 and 4, 2004) and made a recommendation to Council based on an evaluation of the written applications and the information garnered at the public hearing. Gresham City Council conducts a public hearing in May (May 4, 2004) and makes the final determination by approving submission of a final Action Plan to HUD.

The CDHC and City Council proposed the following allocation targets:

- **Housing:** \$1,089,000 in CDBG and HOME funds combined, 60% of total budget. Eligible activities include construction of new special needs housing, acquisition and rehab of existing rental housing, rehab of existing housing, construction of mixed-income housing in sections of the city which do not currently have a high concentration of rental housing, continuation of Tenant Based Rental Assistance through HAP and CHDO operating support.
- **Public Facilities:** \$286,000 in CDBG funds, 16% of total budget. This includes Phase 2 funding for construction of a Head Start facility and other eligible public facilities.
- **Public Services:** \$156,000 in CDBG funds, 9% of total budget. The City is accepting new applications for "ongoing public services" as well as other public services.
- **Administration:** \$274,000 in CDBG and HOME funds combined, 15% of total budget. Funds will be provided to support Gresham's share of HCDC costs and Portland's HOME administration costs, and Gresham's administration costs.

The following are the project descriptions for the CDBG grant program for FY 2004-05:

SOS, City of Gresham - Provision of 0% deferred payment loan to approximately five low/mod income Gresham property owners to pay for private plumbing costs necessary to connect their homes to the public sanitary sewer as mandated by the State of Oregon. Location: Citywide. Recommended Amount: \$5,250

Adapt-A-Home Rehab, Unlimited Choices, Inc. - Removal of barriers to create accessible housing for approximately 45 low-income Gresham households with physical disabilities without regard to age. Location: Citywide. Recommended amount: \$90,000

Rental Assistance, Housing Authority of Portland - Provision of administrative costs for one-time housing assistance (such as deposits) or an on-going (up to 24 months) rent supplement to homeless & at-risk-of-homeless Gresham families & individuals. Serves approximately 45 households/117 individuals. Grant funds would pay for administration. Location: Citywide. Recommended amount: \$8,627

Gresham Homeownership Program, City of Gresham/Community Vision - Buyer-Initiated SAM – Provision of Shared Appreciation Mortgage to approximately 3 qualified first-time homebuyers with incomes below 80% MFI purchasing a home. Location: Citywide. Recommended amount: \$70,477

Mend-A-Home, Unlimited Choices, Inc. – Provision of emergency home repair to approximately 20 low income & very low -income owner occupied homes in Gresham. Assistance may be provided as a deferred payment loan. Location: Citywide. Recommended amount: \$80,000

Pat Pfeifer Park Improvements, City of Gresham – Provision of extending the major pathway (improving circulation), add additional trees and irrigation; resurface and stripe existing asphalt for recreational games, add a swing set to the playground and create a pedestrian entrance. Park located at NE 172<sup>nd</sup> at Flanders serving the Rockwood low/mod income neighborhood. Approximately 1,119 low-income households utilize the park. Location: Census Tract 96.04. Recommended Amount: \$245,000

Vance Park, City of Gresham. – Provision of a play structure, drinking fountain and site amenities to an underdeveloped park serving the low income neighborhood. Will serve children from lowest income census tracts in Gresham. Location: Census Tract 98.01. Recommended Amount: \$ 36,302

Couch Street, City of Gresham - Reconstruction of substandard Couch Street from 172<sup>nd</sup> east approximately 230 feet, including paving and addition of curb, gutter, trees and a sidewalk on south side. Serves low-mod area, including adjacent Coburn Woods, an apartment complex for very low income persons with psychiatric disabilities. Location: Census Tract 96.06. Recommended Amount: \$54,000

Multi-Services Center, Human Solutions, Inc. – Provision of funds to acquire office space for a Region 6 Multi-Service Center in the Rockwood Area of Gresham, where Human Solutions and partner agencies will provide case management, energy assistance, skill building, information and referral and other services. Persons served in the Multi-Service Center will include the elderly, small and large families, victims of domestic violence, youth, the homeless and immigrants. All will be very low income families and individuals. Location: Rockwood Area. Recommended Amount: \$157,000

Fair Housing Assistance, Legal Aid Services of Oregon - Provision of paralegal & attorney assistance to approximately 35 low income individuals from Gresham with housing discrimination complaints. Assistance includes in-depth interview, investigation, referral & individual representation. Location: Citywide. Recommended Amount: \$5,398

Transitional Housing, Human Solutions, Inc. - Project provides approximately 60 unit months of transitional housing for approximately 60 extremely low income Gresham homeless residents including 3 units at Willow Tree Inn & 2 private market units. Human Solutions will work with HAP to find replacement units during Willow Tree construction. CDBG funds pay for property management & administration. Location: Citywide. Recommended Amount: \$37,614

El Programa Hispano, Catholic Community Services – Provision of bilingual/bicultural case management services & new outreach & education services to assist approximately 980 low income Latinos who live in the City of Gresham. Location: Citywide. Recommended Amount: \$36,000

Early Childhood Program, Multnomah Education Service District – Provision of in-home services up to 20 low income Gresham families (75 individuals) with children aged birth through five who have developmental delays and disabilities so that the families can overcome self-sufficiency barriers and participate in early childhood services on a regular basis. Location: Citywide. Recommended Amount: \$15,000

Easy Access, Human Solutions, Inc. - Project will help approximately 3,041 low-income Gresham residents access social and housing services available in East Multnomah County and countywide by providing a staffed information and referral office in Gresham. Location: Citywide. Recommended Amount: \$25,000

Job Skills, El Programa Hispano - Provision of job skills training to approximately 200 low-income Gresham residents, including monolingual Spanish speaking people. Curriculum to include pre-employment workshops and more in-depth classes in approximately 4 specific skill areas. Location: Citywide. Recommended Amount: \$15,000

Views, Cascadia Behavioral Healthcare, Inc. - Provision of peer counseling and support group services to approximately 20 low-income elderly clients in Gresham in need of mental health or addiction services. Location: Citywide. Recommended Amount: \$20,000

Housing Connections, City of Portland – Provision of an online housing locator serving the Portland Metro-area where users can search for specialized housing by affordability, accessibility

and specific geographic location. Funding for operations of the site would be utilized to continue operation of the renter access phone line and outreach specific to Gresham. The site went live in May of 2002 and operations are planned to continue throughout Fiscal Year 2004-2005.

Location: Citywide. Recommended Amount: \$7,000

Renter Stability, Community Alliance of Tenants - Provision of information on landlord tenant law, rights & responsibilities & suggestions on how to maintain professional rental practices to tenants and social service agency staff in Gresham in coordination with the Fair Housing Council of Oregon. Location: City Wide. Recommended amount: \$5,000

Administration, City of Gresham/City of Portland – Funds would be used for staff costs and would also be used to prepare a Consolidated Plan Update and support the countywide Housing and Community Development Commission. Funded award: \$221,400

The following are the project descriptions for the HOME grant program for FY 2004-05:

CHDO Operating, Human Solutions, Inc. – Provision of operating support for Human Solutions, a Community Housing Development Organization (CHDO), to develop affordable housing, provide asset management oversight to existing low-income housing projects, preserve housing for low-income families, and prevent homelessness in the City of Gresham. Location: Citywide. Recommended Amount: \$25,000

West Gresham Apartments, Cascadia Behavioral Healthcare, Inc. - Development of a 27-unit apartment complex housing extremely low-income individuals with a severe and persistent mental illness to be located at 172<sup>nd</sup> and Burnside. 24 one-bedroom units, 2 two-bedroom units, and a resident manager. CDBG funds used for site acquisition and off site improvements. Recommended amount: \$100,000

Habitat 197<sup>th</sup>, Mt. Hood Habitat for Humanity - Acquisition of one acre site on SE 197<sup>th</sup> for construction of 24 condominiums for sale to households with incomes below 50% MFI. 11 homes are HOME-assisted. Sweat equity project. Location: 197<sup>th</sup> between Stark and Burnside. Recommended amount: \$300,000

CHDO Pre-Development Loan, Human Solutions, Inc. - Provision of a pre-development loan to complete due diligence and obtain an option to acquire an existing rental housing complex in Gresham, preferable in the Rockwood area. Activities will include architectural feasibility pest and dry rot inspection, lead-based paint survey, federally-required tenant survey, and environmental study. Any option to purchase will be conditioned on successful application(s) for acquisition and rehabilitation fund in 2005 from the City, State and private lenders. Location: not known. Recommended Amount: \$50,000

Gresham Homeownership Program, City of Gresham/Community Vision - Buyer-Initiated Model – Provision of eight Shared Appreciation Mortgages to qualified first-time homebuyers purchasing homes. Location: Citywide. Recommended Amount: \$70,732



Rental Assistance, Housing Authority of Portland - Provision of one-time housing assistance (such as deposits) or an on-going (up to 24 months) rent supplement to homeless & at-risk-of-homeless Gresham families & individuals. Serves 45 households/117 individuals. Location: Citywide. Recommended Amount: \$34,014

Administration, City of Gresham/City of Portland – Funds would be used for staff costs and contracts to administer the HOME program and to manage projects. Recommended Amount: \$65,966

## **GEOGRAPHIC DISTRIBUTION**

### ***HOME***

The HOME Investment Fund is divided among the jurisdictions in proportion to the low-income population within each jurisdiction.

#### ***Gresham***

Only one part of a program is targeted geographically in Gresham: the Developer-Initiated Shared Appreciation Mortgage program is targeted to the Rockwood area. Instead of targeting resources geographically, the City of Gresham generally makes its resources available citywide for income-qualifying households and income-qualifying projects (with the Developer-Initiated SAM as the only exception.) A map of the qualifying area for the Developer-Initiated SAM is attached.

The Developer-Initiated SAM is targeted to Rockwood to encourage the development of new, affordable owner-occupied housing in a neighborhood with a high concentration of rental housing. The Rockwood area also has a high concentration of minority residents; thus, the only geographically targeted program is targeted to assist an area with a high concentration of minority residents.

#### ***Multnomah County***

Projects have historically been located in both the incorporated and unincorporated areas of the Urban County. Partnerships with other jurisdictions have resulted in some project locations being outside the Urban County footprint but mandated to serve a proportionate number of eligible County residents.

#### ***Portland***

The City of Portland's homeownership program, administered through the Portland Housing Center and the Portland Community Land Trust, is a city-wide program.

## **CDBG**

### ***Portland***

The City of Portland has targeted community development assistance geographically since the beginning of the program in 1974. The targeting strategy concentrates community development efforts in specific low/mod areas, to maximize the impact of the assistance on the areas. After each census, the City determines which neighborhoods meet the federal guidelines for low/moderate income neighborhoods. In the early years of community development, the City developed a plan to move through the eligible areas, beginning in North Portland. Through the 1970s the City provided major infrastructure improvements to low/moderate-income North Portland neighborhoods. These areas were then "graduated" out of the program and the focus shifted to inner Northeast and Southeast. Through the 1980s, the bulk of community development services were provided in these areas.

Major sections of Multnomah County, east of Portland, were annexed to the City during the 1980s. These areas were not served by the City's community development program because of the focus in inner Northeast and Southeast. In the mid and late 1980s, major planning and capital development projects were carried out in Northeast and Southeast as a preparation for transitioning into the newly annexed areas.

In the early 1990s, the City began to move into outer Southeast Portland neighborhoods through its contribution to the development of the Outer Southeast Community Plan. During the 1990s, it also became clear that adequate funds were not available to make significant long-term changes in all of the City's low/moderate-income neighborhoods. Significant efforts continued in inner Northeast, as this area continues to have the highest concentration of low-income persons in the City.

In 1994, the City's Community Development Plan identified the need for an even more targeted approach to providing community development services. It also called for an integrated approach, addressing a range of needs rather than dealing with one problem at a time. The Plan recognized that quickly creating visible improvements would best stimulate private investment and build community momentum for continued positive change. A program to provide multi-year intensive assistance to a few neighborhoods at a time was developed. These efforts continued through the 1990s, and a total of 16 neighborhoods have received assistance through these efforts.

In 2000, changing conditions required the City to again review its community development focus and begin to shift from place-based to people-based emphases. Therefore, rather than focusing on additional low/moderate-income neighborhoods, recent efforts have focused primarily on low-income populations, such as immigrant communities. Geographically focused work will continue in East Portland, as this area has not previously been served by community development efforts of the City.

In the course of its strategic planning process, BHCD has been discussing what community development means in a regional economy where neighborhood improvements often lead to

economic displacement of the low-income residents who were the intended beneficiaries of the improvement.

***Gresham***

Only one part of a program is targeted geographically in Gresham: the Developer-Initiated Shared Appreciation Mortgage program is targeted to the Rockwood area. Instead of targeting resources geographically, the City of Gresham generally makes its resources available citywide for income-qualifying households and income-qualifying projects (with the Developer-Initiated SAM as the only exception.) A map of the qualifying area of the Developer-initiated SAM is attached.

The Developer-Initiated SAM is targeted to Rockwood to encourage the development of new, affordable owner-occupied housing in a neighborhood with a high concentration of rental housing. The Rockwood area also has a high concentration of minority residents; thus, the only geographically targeted program is targeted to assist an area with a high concentration of minority residents.

***Multnomah County***

Multnomah County continues to focus its community development and housing funding in its consortium partner cities of Fairview, Maywood Park, Troutdale and Wood Village. The cities of Fairview and Wood Village will continue to attract the majority of public works projects, as they are survey qualified "target areas." Housing development projects may be located in adjacent entitlement areas as long as benefit to County residents can clearly be demonstrated. Public service projects by application will serve only Multnomah County residents.

Because of the annexations in East County and elsewhere in the 1980's, Multnomah County's urban entitlement area has been sharply reduced; reduced annual grants since these annexations reflect this. However, due to specific language in the CDBG regulations, Multnomah County will continue to receive CDBG entitlement funding as long as the program receives congressional allocations.

Over the past many years, Multnomah County has allocated funding for critical public works needs in Fairview and Wood Village. The City of Fairview has had long standing flooding problems in its core area; installation of culverts and other drainage construction has sharply reduced the damage done by flooding and insured resident safety. Collapsing deteriorated sanitary sewer lines have been replaced in the Original Village in the City of Wood Village. The replaced old concrete sewer lines have provided for a safe and sanitary community.

Limited CDBG/HOME funding has meant that Multnomah County's program has been unable to fund large or innovative projects. Therefore, a key factor to successful community development and housing efforts has been the result of partnering with the entitlement cities of Portland and Gresham. The County renews its resolve to continue these necessary and cooperative relationships.

## CONTINUUM OF CARE FOR HOMELESS PEOPLE

### ACTIVITIES

The following describes activities to be funded with HOME, Community Development Block Grant (CDBG), Emergency Shelter Grant (ESG), and some other locally controlled funds. Multnomah County uses other sources of funds to fund activities, all of which may not be cited below. ESG funds are allocated in concert with the allocation of CDBG funds.

#### Addressing Emergency and Transitional Housing Needs of Homeless People

##### Individuals

Portland will continue to fund:

- two shelters for single adult men (Glisan Street and Clark Center)
- a night shelter for single women (Harbor Light)
- expanded winter shelter for men and women (Harbor Light)
- Jean's Place which provides both shelter and transitional housing for women,
- the Bridgeview program for persons who are chronically mentally ill, and
- alcohol/drug free transitional housing at the Estate and Danmoore.

In addition to case management services in the Glisan and Clark Center, the system provides the following specialized assistance:

- Employment Services
- Mental Health Services Liaison

##### Outcomes Include:

- *2,500 individuals will receive shelter annually at facilities that provide clean and sober environments and link individuals to other needed services.*
- *700 individuals will receive emergency winter shelter.*
- *1500 individuals from shelters will be evaluated for employment or disability income annually*
- *400 individuals of those will be linked to jobs*
- *Fifty percent of job placements will result in sustained employment 6-12 months following placement*

- 1000 individuals from shelters will be evaluated for the need for alcohol and drug treatment annually
- 500 individuals from shelters will be linked to alcohol and drug treatment
- 480 individuals in transitional housing will be linked to alcohol and drug treatment annually
- 170 individuals will receive housing/shelter linked to mental health services
- 300 individuals will receive street outreach services linked to mental health

In addition to the outcomes listed above, in 2003-2004, as a result of a year long planning process, the providers in the Singles System implemented shared outcomes in their contracts.

This bold approach encourages collaboration and accountability. While each program is diverse, there are similarities, and each program contributes to the overall goal of ending people's homelessness.

#### **Shared Outcomes for the Homeless Single Adult System**

Total Served – 5,455 (excludes Community Service Center, which will serve 5,000)  
Housing Placements – 1,820  
Eviction Prevention – 430

Total number of people served by the system who will not be homeless – 2,250  
Housing Retention –  
    6 months – 65%  
    12 months – 55%

#### **Families**

Multnomah County will continue to coordinate funding services for homeless families through the School Age Policy Framework contractors and other community based service providers, including:

- Shelter for 41 families during the winter months (at Salvation Army Door of Hope and YWCA SafeHaven<sup>3</sup>)
- Motel vouchers that are accessed thorough 40 agencies to shelter for 37 families point in time 365 days a year
- Day shelter during the winter months offering recreation and social programs, case management services, linkages with resources and two meals daily.

<sup>3</sup> The Metro East Portland InterFaith Hospitality shelter, sponsored by Peace Church of the Brethren and other churches and religious groups, was forced to close in Spring 2003 for lack of funds.

- Sixty-four project based transitional housing units at the Willow Tree Inn, Richmond Place, Sunrise Place and Turning Point.
- Scattered site transitional housing for 84 homeless families at any point in time.
- Scattered site transitional housing units for 21 pregnant or parenting teen mothers through the HomeSafe, Supportive Housing Program
- Supportive Services and financial assistance to stabilize housing for 42 families through agencies serving culturally specific populations.

**Shared Outcomes for the Homeless Families System**

*110 families (300 individuals) will receive emergency shelter services in the winter months.  
400 families (1,215 individuals) annually will receive a motel voucher for up to 30 days*

**Helping Homeless Individuals and Families Make the Transition to Permanent Housing and Independent Living**

- 925 individuals in shelters will move into transitional and permanent housing annually
- 455 individuals in transitional housing will move into stable housing annually
- 875 individuals not in shelters but who are homeless or losing their housing within one week will receive assistance to obtain or stabilize housing
- Sixty-five percent of housing placements/interventions with single individuals will result in housing stability 6-12 months following placement
- Seventy percent of homeless family households that obtain permanent housing at exit will remain in permanent housing at six-month follow-up.
- Sixty-five percent of homeless family households enrolled in program will obtain permanent housing by exit.
- Sixty-three percent of homeless family participants will complete goals they established in their case plans by exit from program.
- Eighty percent of homeless family households enrolled in program will receive entitlement benefits during their enrollment in the project
- Fifty percent of homeless family participants will increase their income by exit from program.

*emergency shelter.*

*200 families (540 individuals) will receive transitional housing and supportive services annually.*

**Youth**

Multnomah County will continue to coordinate funding and services for homeless youth through community-based service providers, including:

- Two shelters for homeless youth, **including emergency shelter with 30 safe exit, overnight drop-in spaces that can be accessed for up to a period of 8 days, and 30 short-term shelter beds available to youth for up to four months**

- Motel vouchers are accessed for youth **with medical issues** and need a quiet place to rest other than a shelter bed
- **Forty-three** facility based transitional housing beds located at Outside-In and New Avenues for Youth
- Five group living beds at Janus Youth
- **Twelve** scattered site transitional and/or permanent housing units
- County-funded day services offering life skills, meals, health services, A & D groups, Mental Health counseling, recreation, art programs **and education and employment focused activities**; additionally, partnerships with DePaul Treatment Programs and Cascadia Behavioral Healthcare add value for youth who need more intensive services related to drug/alcohol use and mental health
- 24-hour access to Screening, Referral and Assessment
- Service Coordination/Case Management

**Outcomes Include:**

- *1000 youth per year will access the system through the Access and Reception Center, and will receive screening, referral and basic needs (meals, medical, clothing, showers, laundry)*
- *750 youth per year will receive individual needs assessment and be referred to appropriate services both outside and within the continuum of homeless youth services*
- *500 youth will be housed in crisis shelter*
- *250 youth will be housed in short term shelter*
- *350 youth each year will receive intensive service coordination (case management)*
- *At least 75 unduplicated youth will be served in transitional and independent housing 65% of youth exiting from housing will transition to safe, stable housing*

**Domestic Violence**

The Multnomah County Domestic Violence Coordinator's Office administers specific HUD grants to provide housing and supportive services to victims of domestic violence. This Office works in cooperation with other government programs to provide comprehensive community information and education that will lead to the reduction of domestic violence, which has been repeatedly identified as a primary cause of homelessness among women and children. The office works closely with the Governor, legislators, local government, and community partners to create and implement legislation; policies, procedures and local government funding that will assist in reducing domestic violence and the subsequent homelessness it causes.

Multnomah County will continue to fund housing and other domestic violence intervention services for the survivors of domestic violence and their families. Presently included in this funding are Bradley-Angle House, Raphael House, the Salvation Army West Women's and Children's Shelter, the YWCA Yolanda House Shelter, Volunteers of America Family Center

(VOA), Ecumenical Ministries Russian Oregon Social Services programs, International Refugee Center of Oregon Asian Center, Native American Youth Association Family Healing Circle, Oregon Human Development Corporation, and Catholic Charities to provide intervention services emergency and transitional shelter, culturally specific, and other services for survivors of domestic violence. Services include:

- Four emergency shelters serving 440 women and 350 children funded by Multnomah County
  1. West Women: Nine beds for singles – three units for families
  2. Bradley-Angle House: Four beds for singles – nine beds for families
  3. Raphael House: Two beds for singles - ten units for families
  4. Yolanda House: Nineteen beds for singles or families
- Emergency vouchers and rent assistance for victims of domestic violence through Multnomah County Clearing House serving approximately 100 women and their families each year
- Five Additional shelter beds available funded through faith based organizations
  1. Shepherds Door – 96 beds
  2. My Fathers House – 5 families
  3. Door of Hope – 35 families/households
- Facility-Based Transitional Housing offering 61 units to serve approximately 100 families and singles each year
  1. Andrea Lee – nine units for families
  2. Raphael House – 9 units for families
  3. West Women's Shelter – 20 single beds and 9 family units (three flex units that can be used for singles, and three two-family units.)
- Scattered site transitional housing serving culturally specific populations serving 10 single women and 60 women with children annually
  1. Bradley-Angle House – Eastern European and African American
  2. VOA – Latina
  3. Catholic Charities – Latina
- Culturally specific programs offered at various agencies to approximately 500 women each year offering rental assistance, case management and short term intervention services to prevent homelessness because of domestic violence.
- Portland Women's Crisis Line providing referrals and transportation for approximately 5200 women
- Advocacy, prevention, legal representation, educational presentations and programs for children

#### Out of Shelter Crisis Intervention Services-

- Provides housing/rent assistance and case management for approximately 50 women and their children annually.



- Provides DV emergency crisis intervention for an additional 100 women annually which includes crisis management which enables them to remain housed in their existing housing situation.

**Outcomes Include:**

- *650 women and their children will receive shelter and transitional housing annually through Multnomah County funds*
- *An additional 6000 women and children are served through other domestic violence services.*
- *2500 community citizens will be educated/informed concerning domestic violence and the need for social change*
- *1,500 children will be educated that violence/hitting is not a option*
- *20,000 women or family members will receive referrals or assistance as a result of central access at PWCL and emergency intervention at VOA-Home Free programs.*
- *500 women of color will receive assistance through the culturally specific programs*

**Emergency Vouchers**

Portland, Gresham and Multnomah County will continue to provide funds for emergency housing vouchers for individuals and other households in need. These vouchers are administered through Multnomah County's Clearinghouse.

**Prevention of Homelessness****Individuals and Families**

All three jurisdictions will continue to fund rent assistance and assistance with move-in costs to households at risk of losing their permanent housing and to homeless households to facilitate their accessing and stabilizing in permanent housing. The jurisdictions each allocate HOME funds for the rent assistance program operated by the Housing Authority of Portland (HAP). Portland also uses Payment In Lieu Of Taxes (PILOT) funds for a program operated by Multnomah County. Multnomah County Office of School and Community Partnerships (OSCP) uses FEMA, HUD Supportive Housing Program, State and County general funds for emergency housing vouchers, transitional housing and rent assistance.

Portland will contract with the Northwest Pilot Project for prevention/stabilization services for seniors. Homeless prevention will also be done at the Glisan Street Community Service Center.

**Youth**

Many times, youth that run away from home benefit from a combination of counseling and short respite away from home. The Homeless Youth Continuum has developed partnership agreements with agencies serving runaway youth, in a strong effort to prevent this population from becoming acclimated to street life unnecessarily.

New Avenues for Youth (NAFY) has developed a unique partnership with the police and juvenile justice. Youth who are taken into custody by police for low-level misdemeanors and status offenses are brought to the NAFY Reception Center for screening and referral. Many of these youth are runaways and are at risk of becoming homeless. These youth receive linkage and access to services that prevent homelessness.

Janus Youth operates a program specifically targeting runaways. Programming includes shelter for up to 14 days and family counseling. The Access and Assessment Center has implemented policy which diverts youth who have a viable home from entering into the continuum of homeless services.

### Domestic Violence

Services to domestic violence survivors include support groups, outreach services through partnership with Portland Police Bureau Domestic Violence Unit, walk-in assistance, safety planning, and advocacy or legal assistance in obtaining restraining orders. These services can assist the victim to remain in their existing stable housing situation. Ongoing case management is offered to survivors as well as education and advocacy working with other agencies or programs that can assist in housing stabilization, such as the Department of Human Services (DHS) Self-Sufficiency (public assistance, rent/moving assistance). These support systems work towards stabilizing women and their families in their permanent housing situation.

## **MCKINNEY HOMELESS ASSISTANCE**

Two competitive federal McKinney programs, Shelter Plus Care and the Supportive Housing Program, provide almost \$5,000,000 annually to projects serving homeless people within Portland/Multnomah County. The funding commitment from HUD varies from one to five years. At the end of the grant award, project sponsors may reapply. Last year this community submitted a request to HUD for \$4.5 million, focusing on requests to renew all existing projects as well as new permanent housing proposals. Seven renewal projects were awarded \$4,001,751 and a new Shelter Plus Care program for homeless mentally ill individuals was funded for \$517,860. The new permanent housing was possible because HUD provided a \$500,000 bonus for new permanent housing for disabled homeless households.

This year, for 2005, HUD is continuing to implement some of the changes initiated last year. To meet HUD's goal of getting communities closer to its pro-rata share, Portland/Gresham/Multnomah County Continuum of Care will be renewing all projects for one year. The process for prioritizing renewing projects will continue to be based in outcomes, and will set the stage for future ranking whereby our CoC may not be able to renew all projects. HUD continues to fund Shelter Plus Care separately from the Supportive Housing Program, easing some of the funding burden on Supportive Housing Program projects. If HUD is once again provides a bonus to all communities that apply for a new permanent housing program for

disabled people as the top priority, Portland/Multnomah County will apply for the additional \$500,000 - \$750,000 in a much needed area of permanent supportive housing.

Continuing this year, there is an increased emphasis on housing, which rewards communities with projects that have a greater focus on housing than services. Portland /Gresham/ Multnomah County has historically had a stronger focus on services. While we have been able to meet the threshold for housing projects for the past two years, as we renew all projects for one year only, we will be further challenged by dependency on McKinney resources for supportive services.

It is also important to mention that while our annual use of Supportive Housing Program funds is \$4.5 million, HUD indicates we can expect an annual award for the Supportive Housing Program of approximately \$3.4 million. This has not yet posed a problem because of the length of time of current awards. However, the number of years for each project has been shortened so that we can continue to fund as many projects as possible, and this is creating a potential problem for our community. This year it will cost approximately \$5.4 million dollars to renew all Supportive Housing projects expiring in 2004 for two years. Therefore, we will be able to renew some for two years and some for one year. In 2004, the cost of renewing all Supportive Housing projects that expire in 2005 for one year will likely be equal to our *pro rata* need. In 2005, as we complete the application for 2006, this community will likely have insufficient funds to address its renewal need.

In light of all this information, the Advisory Committee on Homeless Issues (ACHI), a committee of the Housing and Community Development Commission (HCDC), decided to rank as the highest priority a new permanent housing proposal that will not impact our renewal burden, ranked as second highest facilities serving homeless people that need renewal funding (because of the sizable investment this community has made in these facilities) and used performance outcomes and other information to rank the rest of the renewal projects. The final project, Shelter Plus Care rent assistance, is funded through this application process but non-competitively from a different funding stream.

In 2003, Portland and Multnomah County convened a Citizen's Commission on Homelessness to develop a 10-year plan to end the institution of homelessness. The CCEH expects to have a draft plan in Fall 2004. The CCEH is supported by a Coordinating Committee, and a number of work groups. ACHI has been disbanded and its functions distributed among the CCEH, the Coordinating Committee, and the work groups. The ACHI functions regarding the Continuum of Care have been assumed by the McKinney Work Group. That group will continue to focus on performance measures for next year and also will work to address the fact that Portland/Gresham/Multnomah County McKinney projects have a significant focus on services. This reduces our scoring ability, since the Administration would prefer that HUD primarily fund housing.

This year's funding option is found in Table 1. It includes one new permanent housing project, eight renewal supportive housing projects, and a Shelter Plus Care project. The total request is for \$5.98 million dollars.

The application was submitted to HUD by July 11.

**TABLE 13: MCKINNEY PROJECTS EXPIRING IN YEAR 2004**  
(Consolidated Application to HUD for Homeless Assistance)

(1) Applicant	(2) Project Sponsor and Project Name	(3) Numeric Priority	(4) Requested Project Amount	(5) Term of Project	(6) Program and Component/Type				
					SHP new	SHP renew	S+C new	S+C renew	SRO new
Housing Authority of Portland	Cascadia Behavioral Healthcare, Cascade AIDS Project, Human Solutions, Inc.	1	\$745,740	5 (yrs)			TRA		
Salvation Army	West Women's Facility	2	\$251,538	2 (yrs)		TH			
City of Portland	Pathways/Singles Leasing II	3	\$237,332	2 (yrs)		TH			
Multnomah County	Domestic Violence Leasing/Services II	4	\$209,538	2 (yrs)		TH			
Central City Concern	Sunrise Place	5	\$209,544	2 (yrs)		TH			
Multnomah County	Domestic Violence Leasing/Services I	6	\$599,114	2 (yrs)		TH			
Multnomah County	Home Safe	7	\$272,554	1 (yr)		TH			
Central City Concern	Alcohol and Drug Free Housing	8	\$162,866	1 (yr)		TH			
Bradley-Angle House	Andrea Lee	9	\$71,273	1 (yr)		TH			
Raphael House	Raphael House	10	\$49,014	1 (yr)		TH			
Multnomah County	Horizons Family Leasing/Services	11	\$338,746	1 (yr)		TH			
Multnomah County	Turning Point	12	\$276,846	1 (yr)		TH			
City of Portland	HMIS	13	\$482,731	2 (yrs)	HMIS				
Cascadia Behavioral Healthcare, Inc.	Royal Palm	14	\$698,395	1 (yr)		IH			
Housing Authority of Portland	Insights, Transition Projects, Inc.	15	\$260,700	5 (yrs)			TRA		
Housing Authority of Portland	Cascadia Behavioral Healthcare, Cascade AIDS Project, Human Solutions, Inc.	16	\$708,240	5 (yrs)			TRA		
Housing Authority of Portland	Veteran's Administration, Cascadia Behavioral Healthcare	N/A	\$411,732	1 (yr)				TRA	
<b>Total Requested Amount:</b>			<b>\$5,985,903</b>						

## NEEDS AND GAPS ANALYSIS

### Process for Completing Housing Gaps Analysis and Homeless Population/Subpopulations Charts

We included four important steps in the Housing Gaps Analysis and Homeless Population/Subpopulations Charts. The first step in this process was the compilation of an accurate inventory of existing housing programs: the number of beds/units, the population served, the sponsor, program type (i.e. emergency, transitional), and location. This provided the basic inventory. The second tool is the *One Night Shelter Count* of all who are sheltered on a single night, November 22, 2002. All providers report on number sheltered and the number who requested services, and who could not be served on that particular day ("turnaways"). The third very important tool was a week-long (February 25 to March 3, 2002) shelter and transitional housing count done by almost all agencies that participate in the One-Night Shelter Count. While the total numbers could not be used for the point in time data for the gaps analysis, information about subpopulations and the supportive services needed enhanced critical pieces of the analysis.

The fourth tool was a "street" count conducted on May 23, 2003, which documented 1,571 different persons sleeping outside or in a vehicle. Based on the number of "street" families served during the year by JOIN, an estimate was made that 162 of these 1,571 were members of a family group. To reduce possible duplication of singles who may have been counted as either sheltered or "turned away" in the one night count in November, the count was reduced by 340—the number of low-barrier beds provided primarily by missions, some publicly funded, including 200 winter shelter beds and 140 year round beds. By totaling the unduplicated number of unsheltered persons found in the street count with the turn-away enumeration from the One-Night Shelter Count, we count 1,222 single individuals and 257 persons in families sleeping outside, in vehicles, or other inhabitable places at one point in time (1,479 total).

The following describes how the Gaps Analysis was completed:

#### Beds

- **The Current Inventory** was obtained from the inventory of existing shelter and housing providers with minor adjustments made from data from the November 22, 2002, "One Night Shelter Count".
- **The Unmet Need** was derived primarily from the "turnaways" reported on November 22, data from the week survey (2002), and the documented number of persons unsheltered on May 23, 2003.

The following are the estimates of unmet need for subgroups at one point in time:

- **1,055 Individuals.** This includes 67 survivors of domestic violence, 42 youth, and 946 other singles.

- **509 Persons in Families with Children.** This includes 69 members in families dealing with domestic violence, 48 youth families, and 392 in other homeless families.

## **HOMELESS SUBPOPULATIONS**

- **Current Inventory.** The one-week survey of providers provided the primary data for this section.
- **Estimated Need: Services and Subpopulations.** The percentage of individuals or households receiving services was used to estimate the number of those needing services. Subpopulation information also was estimated this way.
  - **Substance Abusers, mentally ill, and dually-diagnosed.** The weeklong survey found that 47% of homeless individuals currently receiving shelter/housing are substance abusers, 22% have a dual diagnosis, and 33% are seriously mentally ill. (These categories are not mutually exclusive.) Data from providers indicate that percentages are much lower for adults in families with children: Substance abusers range from 9% of those served in the "family system" to 34% in the "domestic violence system"; providers in the family system reported no seriously mentally ill persons, while domestic violence providers reported 13%; those with a dual diagnoses ranged from 5% of those served in the "family system" to 11% in the "domestic violence system."
  - **Persons with HIV/AIDS.** Information obtained from the one-week survey of providers was supplemented with data on homeless persons served by Cascade Aids Project. Combining the two pieces of data, it is estimated that 6% of homeless single individuals and 4% of persons in families with children are affected with HIV/AIDS.

TABLE 14: NEEDS AND GAPS ANALYSIS FOR 2003-2004

**4. Continuum of Care: Housing Gaps Analysis Chart**

		Current Inventory in 2003	Under Development in 2003	Unmet Need/ Gap
<b>Individuals</b>				
<b>Example</b>	<b>Emergency Shelter</b>	<b>100</b>	<b>40</b>	<b>26</b>
<b>Beds</b>	Emergency Shelter	661	0	331
	Transitional Housing	670	120	91
	Permanent Supportive Housing	775	60	629
	<b>Total</b>	<b>2,106</b>	<b>180</b>	<b>1,055</b>

**Persons in Families With Children**

<b>Beds</b>	Emergency Shelter	259	14	113
	Transitional Housing	810	0	234
	Permanent Supportive Housing	241	0	159
	<b>Total</b>	<b>1,310</b>	<b>14</b>	<b>509</b>

**Continuum of Care: Homeless Population and Subpopulations Chart**

<b>PART 1: HOMELESS POPULATION</b>		<b>SHELTERED</b>		<b>UNSHELTERED</b>	<b>TOTAL</b>
		<b>EMERGENCY</b>	<b>TRANSITIONAL</b>		
<b>Example:</b>		<b>75 (A)</b>	<b>125 (A)</b>	<b>105 (N)</b>	<b>305</b>
1. Homeless Individuals		684 (N)	700 (N)	1,222 (N)	2,606
2. Homeless Families with Children		83 (N)	389 (N)	95 (N)	567
2a. Persons in Homeless Families with Children		283 (N)	870 (N)	257 (N)	1,410
<b>Total (lines 1 + 2a)</b>		<b>967</b>	<b>1,570</b>	<b>1,479</b>	<b>4,016</b>
<b>Part 2: Homeless Subpopulations</b>		<b>Sheltered</b>		<b>Unsheltered</b>	<b>Total</b>
1. Chronically Homeless		420 (E)		1,100 (E)	1,520
2. Seriously Mentally Ill		458 (N)			
3. Chronic Substance Abuse		749 (N)			
4. Veterans		182 (N)			
5. Persons with HIV/AIDS		144 (N)			
6. Victims of Domestic Violence		280 (N)			
7. Youth		159 (N)			

# HOUSING AND HOMELESS NEEDS ASSESSMENT: 2003 UPDATE

## NEED FOR LOW-INCOME RENTER HOUSING ASSISTANCE

### HOUSING NEEDS FOR LOW-INCOME RENTERS

Since 1998, the National Low Income Housing Coalition (NLIHC) has been issuing updates of their report: *Out of Reach at What Cost?*<sup>4</sup> Using the NLIHC methodology<sup>5</sup> to gauge the ability of low-income households to rent at prevailing Fair Market Rents (FMR) established by HUD, the Coalition published the following findings for the Portland-Vancouver metro area:

- In the Portland-Vancouver Metropolitan Statistical Area (MSA) in 2003, the FMR for a two-bedroom unit was \$795.
- The generally accepted standard of affordability endorsed by HUD is that a unit is considered affordable if the cost of rent and utilities totals no more than 30 percent of the renter's income.
- The estimated renter household median income is lower than the area median family income. In 2003, the estimated renter household income for the Portland-Vancouver MSA was \$36,183 annually, compared with a median income for a family of four of \$65,800.
- Using the estimated rental household median income, the monthly wage for a renter household was \$3,015. An affordable unit should cost no more than 30 percent of that (\$905). Of all the renter households, 43% cannot afford the two-bedroom FMR.
- In the Portland-Vancouver MSA, a worker earning the Oregon minimum wage (\$6.90 per hour) has to work 89 hours per week in order to afford a two-bedroom unit at the area's FMR.
- The Housing Wage in the Portland-Vancouver MSA is **\$15.29**. This is the amount a full time (40 hours per week) worker must earn per hour in order to afford a two-bedroom unit at the area's FMR. This is 222 percent of the minimum wage (\$6.90 per hour). Between 2002 and 2003 the two bedroom housing wage increased by 3.11 percent.

In short, the NLIHC Report finds an affordability gap for renters whose income is roughly 88% or less of the 2003 estimated median family income. These renters are unable to afford a two-bedroom apartment at the prevailing FMR of \$795.

<sup>4</sup> National Low Income Housing Coalition. *Out of Reach, Rental Housing at What Cost?*, 2003.

<sup>5</sup> The methodology is described at the NLIHC web site:

<http://www.nlihc.org/oor2002/index.hlm>.

<http://www.nlihc.org/oor2002/index.hlm>



The next two summary tables are from the NLIHC Report:

**TABLE 15. ESTIMATED AFFORDABILITY OF FMR IN PORTLAND-VANCOUVER MSA, 2003.**

Income Needed to Afford FMR					
Amount			Percent of 2003 MFI for a Household of 4		
Zero Bedrooms	One Bedroom	Two Bedrooms	Zero Bedrooms	One Bedroom	Two Bedrooms
\$20,960	\$25,760	\$31,800	32%	39%	67%

Source: *Out of Reach, Rental Housing at What Cost?*, National Low Income Housing Coalition, 2003.

**TABLE 16. ESTIMATED WAGE NEEDED TO AFFORD FMRS IN PORTLAND-VANCOUVER MSA, 2003.**

Housing Wage						Work Hours per Week Necessary to Afford a Unit If Person Earns Oregon Minimum Wage	
Hourly Wage Needed to Afford (40 hrs./wk.)			As % of Minimum Wage (OR=\$6.90)				
Zero Bedroom FMR	One Bedroom FMR	Two Bedroom FMR	Zero Bedroom FMR	One Bedroom FMR	Two Bedroom FMR	One Bedroom FMR	Two Bedroom FMR
\$10.08	\$12.38	\$15.29	146	179	222	72	89

Source: *Out of Reach, Rental Housing at What Cost?*, National Low Income Housing Coalition, 2003.

## **WAITING LIST FOR SECTION 8 RENTAL ASSISTANCE AND PUBLIC HOUSING**

Currently the Housing Authority of Portland's (HAP) Section 8 Program provides monthly housing assistance to just over 7,800 households, 7,080 of which are households using tenant-based vouchers. The balance is made up of the following: 562 SRO/Mod Rehab vouchers, and 195 Project-Based Assistance certificates. There are also 2,300 public housing units. With these approximately 10,150 units, HAP serves about 33,000 individuals.

The waiting lists for these two programs provide some indication of the need for affordable housing for low-income households. As detailed below, some 10,692 households are on waiting lists for HAP's rent-assistance housing programs.

### ***TENANT BASED SECTION 8***

On March 1<sup>st</sup> 2004, HAP had 7,378 households on its Section 8 waiting list for tenant-based vouchers. (2.5% of those currently on the wait list are homeless – in shelters or living on the street.) The Section 8 waiting list was opened for one week in October 2002, and has been closed since.

Between zero and 100 vouchers are available each month. Recipients are selected by a lottery, so that the date a household entered the queue does not determine whether they will receive a voucher. HAP estimates that it will not accept new applications until 2006. HAP will work to exhaust the current list first; no new applicant will receive a voucher until every household on the waiting list has pulled from the list.

### ***PROJECT BASED SECTION 8***

With one exception, HAP does not maintain Section 8 wait lists for SRO units. These lists are maintained as site-base waiting lists by the agencies actually managing and operating the Single Room Occupancy hotels. The exception, the Jefferson West Apartments, has a waiting list of 1,189 names.

### ***PUBLIC HOUSING***

As of March 1, 2004 there were 2,125 households on HAP's Public Housing waiting list. An additional 243 applicant households were being processed, but not yet housed. HAP began accepting applications for the new Severe Housing Needs priority on February 2, 2004. HAP stopped accepting applications under the old "special-needs" priority system on August 1, 2002. This closure was a bridge to implementation of HAP's new priority system, which is planned to begin in late 2003 after all remaining "special needs" applicants have been housed or determined ineligible. The regular waiting list is still open for applicants who will be processed in order of date and time of application.

Households that moved into Public Housing during the 4<sup>th</sup> quarter of 2003 waited an average of 683 days for housing. The average was 533 days for those in "special needs" high priority groups 1-3; it was 990 days for those in lower priority groups 4-5. Forty-three households from groups 1-3 were housed in the 4<sup>th</sup> quarter, while only 21 (same number as previous year) were housed from groups 4-5 (mostly graduates of the Ready to Rent program).

HAP experienced a significant slowing of regular waiting list activity from March through early October 2003 while available Public Housing units were reserved for some of the 380 families relocating from Columbia Villa due to HOPE VI reconstruction.

## **ADDRESSING THE SPECIAL NEEDS OF PERSONS WHO ARE NOT HOMELESS**

### **NON-HOMELESS PERSONS WITH SPECIAL NEEDS**

Many persons in each of the special needs categories, regardless of the specific "special" need, share certain characteristics. Many have permanent conditions that affect their self-care capacity and often limit their mobility. Large numbers are extremely low-income individuals. Due to poverty and disability, individuals without a strong support system are extremely vulnerable to homelessness and some to institutionalization. Many with special need require support services to both access and maintain housing.

### **NUMBER OF PERSONS WITH DISABILITIES**

According to the 2001 American Community Survey, nine percent (56,093) of the total population of Multnomah County are people between 16 to 64 years of age who have a significant physical or mental disability. These disabilities fall in six categories:

• Sensory disability	10,252
• Physical disability	26,703
• Mental disability	19,704
• Disability makes it difficult for person to care for self	6,401
• Disability makes it difficult for person to go outside alone	15,135
• Disability prevents person from working	28,670

Some people have multiple disabilities. Since the term "disabilities" does not have a clear universal definition, there are people with disabilities not represented in these figures. Children under 16 years of age, and seniors aged 65 and older, are also not included.

## POVERTY: INCOME AND HOUSING COSTS

Unless they have another source of income, most individuals with a disability rely on support from programs administered by the Social Security Administration, such as Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI). According to the Social Security demographic information, there are approximately 15,272 recipients in Multnomah County, an increase of 5.3% over 2002 estimates.

Currently the SSI benefit is \$552 monthly (\$6,624 annually) or just over 14% of Median Family Income for a household of one. The SSDI benefit, based on previous earnings, is higher at \$9,600, but is significantly under 30% of Median Family Income in February 2004 for a household of one, \$14,250.

Throughout this plan, we measure affordability the same way HUD does, as housing and utilities that together cost no more than 30% of a household's income. Affordable rent for a person receiving SSI is approximately \$166 per month. Given that the fair market rent for a studio unit in the Portland-Vancouver MSA is \$524, a renter with a disability who is unable to secure a Section 8 voucher or other subsidized housing can expect to have to pay to over 90% of his or her income on housing.

### Rent as a Percentage of Income

Rent and Utility Levels	Monthly Rent for Studio Units	Rent as % of SSI Income (\$552)
Affordable Rent	\$166	30%
Fair Market Rent	\$524	92%

Source: HUD approved Fair Market Rents (FMR), effective 9/30/2002. FMR includes cost of utilities

## NUMBERS SERVED BY MULTNOMAH COUNTY AGING AND DISABILITY SERVICES (ADS)

In 2001-2002, Multnomah County's Department of County Human Services, Division of Aging and Disability Services served over 35,000 different persons. Of these, 10,231 received supportive care services in their home, community, or nursing home; 21,892 were eligible for, and received financial assistance, food stamps, and Oregon Health Plan coverage; and 2,950 received only food stamps. During the same year, 1,740 elderly persons were served in the Older American Act/Oregon Project Independence program.

Approximately 14,000 elderly persons were served in the Medicaid program, including 6,200 who did not require service assistance and 7,800 who required assistance at home or in licensed care including nursing homes, assisted living facilities, adult foster homes, and residential care facilities.

These numbers are likely to be much smaller during 2003-2004. State budget shortfalls at the end of the 2001-2003 biennium resulted in sharp cuts during the last half of FY 2002-2003. Projected state budget shortfalls for FY 2003-2004 are expected to lead to more restrictive eligibility criteria, an additional reduction in the number of people served, greater contraction of the number and size of programs, and further limitations on the types of services available

## **HOUSING CHALLENGES FOR SENIORS IN MULTNOMAH COUNTY**

Resources or housing situations that seniors live in include houses, mobile home courts, apartments, and licensed options. Many seniors received a fixed income. If seniors live in their own home, they may be "overhoused" (e.g., living alone in a three-bedroom home) and require assistance to remain in the house due to the cost of repairs and their decreasing ability to maintain the property.

Over half of older Oregon renters spend over 35 percent of their income on rent, usually in an apartment. This places these seniors in the position of having to choose between food, utility bills, and, in some cases, medications. In fiscal year 2003, the choice issue became more evident with increases in rent, utility costs, prescription costs, and medical costs.

## **SUBSIDIZED HOUSING FOR THE ELDERLY**

In Multnomah County, there are approximately 1,365 subsidized housing units designated for persons 62 and older, and approximately 2,273 units designated for either the elderly or persons with disabilities. Since 1992, approximately 250 subsidized units for seniors have been lost. An elderly person may be on the waiting list for public housing for up to 2 years. Many of the HUD Section 8 buildings for seniors report waits of 1½ to 3 years.

It is clear from the length of the waiting lists that the development of new subsidized units has not kept pace with need. Most recent "affordable housing" developments that seniors may access have been financed with tax credits or bonds. Due to these funding sources, the rents often are set at a level affordable to households with incomes at 50 or 60 percent of the area's median. The monthly rents for units in these buildings range from \$450 to \$675, amounts not affordable to an individual receiving SSI (\$553), or to most individuals who receive no more than \$800 in benefits from Social Security or from Social Security Disability Insurance (SSDI).

Multnomah County provides limited funds for rent assistance for clients served by ADS. These funds enabled a total of 500 ADS clients to obtain permanent housing with a success rate of 90 permanently housed in the three-month and six-month outcome reports. Of the 359 assisted, 160 were 60 and older; 199 were at risk of homelessness and 23 were homeless.

## **MOBILE HOME COURTS**

Many seniors choose housing in mobile home courts as an affordable option when they retire and move from the family home. Multnomah County currently has 91 mobile home courts. These courts contain 5,094 spaces, many of which are occupied by seniors. Rent increases and stringent upkeep requirements are common. Many seniors in the courts own older homes that are not marketable, leaving the seniors with no choice but to remain and pay the higher rent. A senior whose care needs or other circumstances dictate a move will often lose equity in the home, and must continue paying rent while trying to sell the home.

## **CARE CHALLENGES**

The number of persons with physical limitations increases steadily with age. As the number of "old, old" seniors increases, the need for in-home or other services increases as well. Many seniors prefer to stay in their own home rather than moving to a licensed facility. The provision of supportive services, such as housekeeping or personal care, is funded by Medicaid or through Oregon Project Independence. The funding for these programs is at risk due to state budget shortfalls. The state may not be able to provide sufficient local "match" for federal medicaid dollars.

Lack of sufficient, efficient, qualified, and cost effective provision of those services continues to be a barrier. One program that has been very effective in service provision is the HUD and Medicaid funded Congregate Housing Service Program in four buildings owned and operated by the Housing Authority of Portland. This program serves 120 seniors and persons with disabilities, enabling them to live in their own units. The funding for this program is at risk due to state budget shortfalls.

At times, services in the home cannot meet senior needs and the best option may be to move to licensed care. The types of licensed care and number of units/beds and ADC clients served in these facilities are shown in the table below.

Within the category of Residential Care Facilities (RCF) there is some specialization including Mental Health Enhanced Care (15), AIDS care (12), Alzheimer's care (318), and alcohol and drug/mental health (85). The funding for many of these facilities is at risk due to state budget shortfalls.

**TABLE 17. LICENSED RESIDENTIAL CARE BEDS IN MULTNOMAH COUNTY – FEBRUARY 2003**

<b>Licensed Options</b>	<b>Number of Units/beds</b>	<b>ADS Senior Clients in Facility</b>	<b>ADS Clients with Disability in Facility</b>
Assisted Living Facilities (ALF)-- apartments with care provided		335	65
Residential Care Facilities(RCF)— units that may be shared with care provided	1495	315	132
Adult Foster Homes (AFH)--residential homes with 5 or less residents with care provided	2595	1037	343
Nursing Homes (NH)--Licensed nursing care provided including some skilled care	4400	1081	210

*Source: Multnomah County Aging and Disability Services Division.*

## **PEOPLE WITH PHYSICAL DISABILITIES**

### ***THE ROLE OF MULTNOMAH COUNTY AGING AND DISABILITY SERVICE (ADS)***

In 1997, the State of Oregon's Senior and Disabled Services Division (SDSD) transferred to Multnomah County Aging and Disability Service (ADS) the responsibility for case management, food stamp, and Medicaid services for people with disabilities up to 64 years of age. In 2001-2002, ADS served close to 21,000 people with disabilities aged 18-64, which is about 29% percent of the total population with disabilities aged 18-64 in the County. Within this population there are physical, mental, and developmental disabilities, and many people with multiple disabilities.

Through the community-based care system 3,202 clients received case managed care services in their home. In 2003, there were 19,813 clients with disabilities out in the community receiving Services that included financial assistance, food stamps, Oregon Health Plan, and Medicaid. Approximately 2100 of these clients also received serviced from Multnomah County's Development Disabilities Division, and 8,000 received services from Multnomah County's Mental Health Division.

### ***HOUSING CHALLENGES FOR THE DISABLED***

The majority of ADS clients with disabilities have incomes less than 30 percent of the MFI. The principal income supports for persons with disabilities, Supplemental Security Income and Social Security Disability Insurance, actually leave most clients well under the federal poverty standard. This results in many clients paying more than of 50 % of their income for rent, and some paying as high as 85-90% in non-SRO, fair market housing. The restricted availability of rental units in this income range is also compounded by the lack of accessibility in rental housing generally. Low income clients with significant mobility restrictions are left with virtually no options in affordable, fair market housing, and must rely on a limited supply of public units which may take several years to obtain. Clients in this situation often forced to live in substandard housing, or housing severely inadequate to their needs and ultimately may loose the ability to maintain independent housing altogether.

Recent reductions in the State's Medicaid budget have also significantly affected housing outcomes in the disability population. Many clients must now choose between paying the rent and paying an increasing share of their own medical care. In particular, the elimination of prescription assistance through the Medically Needy Spend-down program, has created substantial housing insecurity among clients with even moderate prescription costs.

#### **Programs**

There are several initiatives in the Portland area aimed at assisting low-income people and/or people with disabilities that make affordable and accessible community housing a reality for this population.



1. Unlimited Choices, makes physical accessibility improvements for elderly and people with a disability so they can remain in their homes. All three jurisdictions help fund these modifications.
2. The Housing Authority of Portland administers the Section 8 voucher program. People with a disability were designated to receive 295 of these. In low-rent public housing there are a total of 2733 units. 27% of public housing residents and 19% of Section 8 participants are persons with disabilities.
3. HUD's 811 Housing Program for people with disabilities is intended to ensure that no resident pays more than 30 percent of household income for rent. In the County, there are 22 such projects, providing 305 subsidized units. The most recent of these is Pine Point. This fully-occupied project includes two onsite caregiver apartments, a job training and abilities center, and full accessibility.
4. There are 64 buildings in the County with project-based Section 8 assistance. Seven percent of the units are for physical disabilities. Of this 7 percent, approximately 2 percent are for people with vision impairments and 5 percent for those with other disabilities.
5. Medicaid has continued to support the Congregate Housing Service Program (CHSP) which provides meals and services to people with disabilities in four buildings who need assistance to remain in their apartments. In one building, HAP partners with ADS to operate a shared attendant project. Six residents receive caregiver services by a provider who lives in the building.
6. ADS continues to administer an Emergency Housing Assistance fund to help persons with disabilities maintain their housing, or to secure housing if homeless. In 2003, 349 households received assistance from the fund. Access to the fund has also been expanded to include rental assistance in transitional housing placements, moving clients with poor rent to income ratios from fair market housing into subsidized units, and helping clients with increased medical needs secure more appropriate housing. ADS has also augmented it's housing program with other emergency assistance programs which target the medical costs of clients impacted by Medicaid service reductions. It is hoped that by providing supplemental assistance for prescriptions and durable medical equipment, housing outcome will improve by lessening the financial burden associated with the reduced level of Medicaid services.

ADS is also participating in the Severe Housing Need Referral program administered by the Housing Authority of Portland. This program significantly reduces the waiting time necessary to access public housing for disabled clients who are homeless, or who are paying 85% or more of their income in their current housing.

Even with these successful efforts, there are fewer than 1,400 federally subsidized units for people with disabilities. As of March 1, 2004, over 2,200 one-person households were on the waiting list for the Housing Authority of Portland's low-rent public housing. Many of these

people are disabled. Three out of four people with a disability are not in subsidized housing although their income would qualify them.

## ***PERSONS WITH SEVERE AND PERSISTENT PSYCHIATRIC DISABILITIES***

In any year, about one in five adults experience a mental health problem that impairs functioning. Over a lifetime, about one in fourteen adults become disabled by a serious mental illness such as schizophrenia, manic depression or major depression. Today, medications and other treatments are available that effectively control the symptoms of most mental illnesses. In Oregon, about 60,000 people are disabled by severe and persistent mental illness. Most live successfully in the community. Some require support in their living situation that ranges from weekly assistance with independent living tasks to 24-hour residential treatment facility services.

Up to 15,398 persons with severe and persistent mental illness are estimated to reside in Multnomah County. Of these, 11,571 (75%) received services in 2001-2002. Most of these individuals have extremely low incomes and can't afford to acquire housing at market rates. An estimated 8,678 adults receiving public mental health services need a rent subsidy in order to afford community housing. About 3,251 Multnomah County residents with mental illness need a service-enriched housing program. Service-enriched housing includes a range of options from affordable, independent apartments with support services provided by mental health workers based off-site to 24-hour supervised "group home" settings. It is estimated that such accommodations are available for only 1,151 (35%) of the Multnomah County residents needing them.<sup>6</sup>

## ***NEEDS AND GAPS FOR PEOPLE WITH MENTAL ILLNESS***

Like other members of the general population, most chronically mentally ill adults meet—or could meet—their residential needs in totally independent settings.

In most cases, the extreme poverty of this sub-population forces them to live in substandard conditions or to depend on rent subsidies. Estimates are that 75 percent or 7,823 mentally ill adults receiving services in Multnomah County need a rent subsidy.<sup>7</sup> Nearly 3,000 of these need a specialized housing program.

The mental health system has no one body which is responsible for the delivery of either residential or treatment services. Roles are shared with the State, Multnomah County, and a

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<sup>6</sup> Data sources: Tables produced by the Office of Mental Health and Addiction Services (OMHAS), Health Services, Oregon Department of Human Services titled "Mental Health Services: Total Number of Adults Served and Residents by Housing Type (Data from Fall 2000 MH Housing Survey, OMHAS)" and "Housing Needs Data for Persons with Psychiatric Disabilities (Prepared 9/02)".

<sup>7</sup> Data on need are from the State of Oregon Office of Mental Health Services, September 1999.

number of community sub-contractors. Since early 1999, State and County service providers have met to review the mental health delivery system. To date, the group has identified gaps within the current system that warrant further examination and collaboration aimed at resolution. Especially notable are:

- Significant loss of low income/affordable housing within the County.
- "Cost shifting" among State and County agencies competing for limited service dollars.
- The difficulties of housing and serving persons with a psychiatric disability who
  - are aged 18-25
  - abuse substances
  - have a developmental disability
  - are involved in the criminal justice system
  - are physically compromised.

Service gaps continue to widen as persons are discharged from an overcrowded State hospital and Acute Care system and forced to move into a community where mental health services have been pared back and providers are ill-prepared to meet their specific needs.

## **PERSONS WITH DEVELOPMENTAL DISABILITY**

Persons with developmental disabilities include those with mental retardation, autism, cerebral palsy, epilepsy, other neurologically handicapping conditions attained before the age of 22. The estimated total number of persons in Multnomah County with a developmental disability is 19,250 (3 percent of the total population). To qualify for state-funded services, persons with a developmental disability must have a composite I.Q. score of 69 or less.

The Multnomah County Department of County Human Services, Developmental Disabilities Services (DCHS/DDS) provides case management for approximately 3,400 persons of all ages, approximately 1000 are adults with unmet housing needs. Of the 3,400 served by the County:

- Eight hundred and sixty (860) are adults in some type of supported or structured living situation, ranging from semi-independent living to group homes or adult foster care.
- More than five hundred (592) are high school transition students (ages 15 through 22) in a variety of family type supports.
- One thousand one hundred eighty four (1,184) are children. This is a mixed group with many living at home. DDS targets support to the enrolled child within the family when appropriate.
- Approximately 1000 are adults with unmet housing needs. Of these 1000, it is estimated that 500 are under housed adults who are dependent on informal support and subsistence from neighbors, friends, or family. Many of the remaining 500 are in dire need of adaptable housing units and assisted living services.

## ***EMERGENCY SERVICES FOR DDSD***

Most emergency housing crises (other than state diversion funded persons) are handled with limited funds available through Clearinghouse (motel vouchers/rent assistance) operated by Multnomah County Office of School and Community Partnerships. The Housing Authority of Portland priority housing program has not been available for 2 years. However, DDSD is one of the agencies accessing HAP's Severe Housing Program for Project Based Housing February 2004 through April 2004 for clients needing all but 2 bedroom apartments.

DDSD also continues to utilize the RASP (transitional housing), Shelter + Care for DD adults and their families, and Horizon's Skill Training for single, homeless clients.

Since many individuals with developmental disabilities are nonverbal, unable to read, or have other communication disorders, case managers contact other service providers on behalf of clients or their families. Case managers typically handle a caseload of 90+ clients at any one time.

Services for developmentally disabled persons provided through Multnomah County Developmental Disabilities Services include case management, referrals, and other activities that help those with developmental disabilities access numerous community resources and also find affordable housing which meets safety, transportation, and adaptation needs. It is possible that further state budget cuts will change the program to crisis services only.

DDSD has a number of families who are not documented with a DD eligible, documented child. Housing crises develop for the family due to fluctuating income and most programs like HUD, HAP, etc. are of little benefit due to subsidy assistance not available to undocumented families.

DDSD as one of the agencies participated in the development of the HCDC Special Needs Committee Report. Staff from DDSD, as well as other Divisions of DCHS, participate in committees to implement the plan as well as committees implementing the plan to end homelessness in Multnomah County.

## ***THOSE NOT SERVED BY MULTNOMAH COUNTY***

The estimated 16,250 other persons with a developmental disability are either served by a mix of Aging and Disabled Services, the ARC of Multnomah County, the Independent Living Center, a variety of other agencies and non-profits, or are not receiving services by choice, or lack of information, advocacy, or resources.

## ***ADDITIONAL SERVICES***

As funding is available over the next few years, Multnomah's Department of County Human Services/ Developmental Disabilities Services (DCHS/DDS) will be working with three new brokerage agencies to serve individuals to serve individuals with developmental disabilities. Brokerages will provide support services to assist adults with developmental disabilities to remain in their own or their family's home. The services include brokering for the receipt of funds and employment of client directed staff to provide in-home care, employment, or

number of community sub-contractors. Since early 1999, State and County service providers have met to review the mental health delivery system. To date, the group has identified gaps within the current system that warrant further examination and collaboration aimed at resolution. Especially notable are:

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community participation services. DDS will be operating a brokerage, all three will provide housing resources as well as community-based services. DDS will provide eligibility determination, client Medicaid service plan approval, and monitoring agency for all adults regardless of brokerage assignment.

## **PERSONS IN RECOVERY**

The substance abusing population has a high risk of homelessness due to the progression of their addictions and unstable behaviors. Often the precipitating factor in homelessness for this population is a substance abuse episode leading to eviction from housing or being asked to leave a family situation.

Because of the nature of chemical dependency, jobs, driver's licenses, house payments, marriages, nuclear families, child support payments, credit cards, and family relationships are increasingly vulnerable. Eventually chemical dependency, if not successfully treated, can result in a loss of these connections resulting in an inability to maintain housing, the family system and other serious health and social problems.

The availability of an accessible continuum of care is the cornerstone of effective recovery for persons with substance abuse. The three elements of the continuum of care are:

- accessible, culturally-specific treatment and aftercare coupled with adequate health, mental health, employment, and other wrap around services;
- affordable, appropriate alcohol-free and drug-free supportive housing; and
- meaningful employment.

## **NEED FOR PERMANENT SUPPORTIVE HOUSING FOR PERSONS IN RECOVERY**

As individuals and families progress in their recovery and treatment, the need for supportive housing continues for most people. Long periods of stable supportive housing have a positive effect on individual recovery efforts well past the time of active participation in outpatient treatment. The need for a permanent supportive living environment may continue indefinitely for some individuals. Multnomah County conservatively needs at least 500 additional family units and 2,000 additional units of housing for single adults to have a continuum of recovery that is accessible and effective. Among the most critical needs is housing that is supportive of recovery and treatment. The lack of affordable housing impacts both treatment and recovery.

The need for supportive housing that is drug and alcohol free is most acute for homeless and low-income persons and families if treatment for these individuals is to be effective and lasting. It is estimated that approximately 70 percent of homeless single adults and 50 percent of the homeless families need alcohol and drug treatment with associated recovery services. Based on the current numbers of homeless people, a minimum of 752 homeless individuals and 231 homeless families are in need of affordable alcohol and drug free housing as part of the continuum of recovery services.

Between 1993-1994 and 1997-1998, the number of treatment episodes attributed to "homeless" adult clients increased from 2,050 to 3,003 (50 percent). In 1999-2000, the number of treatment episodes jumped 20 percent to 3,698. Supportive housing which is alcohol and drug free is essential if these individuals and families are to transition from homelessness to self-sufficiency.

Twenty-four to thirty months is the average length of time needed for homeless people who are chemically dependent to attain self-sufficiency. This means that stock of affordable alcohol and drug-free housing will have to be far larger than the number of households entering treatment each year to allow for the 2½ year initial recovery period needed for self-sufficiency.

- Treatment. It is estimated that a portion of clients served in residential treatment could function in intensive outpatient services if appropriate drug-free housing options were available and could be coupled with the outpatient treatment. By providing more drug-free housing options, residential treatment stays could be shortened and more persons served. The need for alcohol and drug free housing to reduce the length of stay in residential treatment and as an alternative to residential treatment for some clients is estimated to be in excess of 150 units.
- Recovery. The need for alcohol and drug free housing options crosses all populations. For long-term recovery to be successful, appropriate housing at several points in the continuum must be available. The service gap is especially critical for persons and families with multiple service needs. The more service needs that are present in a household (e.g., alcohol and drug, physical or mental health disabilities, AIDS and related diseases, domestic violence), the more critical the need for safe, affordable, and stable housing.

The housing needed for both treatment and recovery requires a range of management and supportive services from a high level of on-site management (for treatment and early recovery) to self-management in permanent housing (such as Oxford houses).

## ***INVENTORY OF ALCOHOL/DRUG FREE HOUSING***

The alcohol/drug free housing system currently includes:

- 423 permanent housing units for single men and women and 32 Oxford houses;
- 84 units of permanent housing for families and two Oxford houses;
- 398 transitional housing units for singles; and
- 60 transitional units for families.

## **ADULTS WHO ARE COMMUNITY JUSTICE CLIENTS**

The Department of Community Justice (DCJ) Division, Multnomah County is responsible for the supervision of over 10,000 adult offenders sentenced to probation or released from custody on post-prison supervision and who are returning to live in Multnomah County. The ultimate objectives the Department strives to achieve, when supervising male and female offenders on



parole or probation, is to protect public safety, hold adult offenders accountable in fair ways, and reduce recidivism by addressing and working to change criminogenic behaviors.

### **Those On Post-Prison Supervision or Parole**

A total of 300 inmates are released monthly to Multnomah County, including 100 clients (on average) from state prisons, 150 per month from county jail, and 60 who complete residential alcohol and drug treatment. Of those 300 inmates, roughly 200 will need assistance with housing on a monthly basis. Currently, 200 transitional (thirty days to nine months) beds are available. However, only half of individuals in transitional housing will find longer term or permanent housing. That leaves (on average) 85 beds to meet the needs of approximately 200 people per month. In addition, an average of 150 offenders are served each month for non-housing services including emergency case management, transportation, clothing vouchers, referrals to community resources and DHS (food stamps and OHP).

- The cost to maintain an offender at the Portland Justice Center is \$105 per day.
- The cost to maintain an offender in the State prison system is \$62.24 per day.
- The cost to live in a studio or Single Room Occupancy unit is \$10 per day.

### **Needs/Barriers**

The State and County have allocated limited funds to help offender's transition into permanent housing.

The following are the chief barriers that offenders face:

- 75 to 80 percent use or have used an illegal substance (data from random drug tests)
- Lack of education and job skills
- A criminal record
- Mental Health Issues
- Physical and Developmental Disabilities
- Many offenders are unable to maintain employment due to the lack of safe and secure housing.

Criminal history in itself is a key barrier for offenders accessing safe, secure, and affordable housing. Even if an ex-offender has the ability to pay rent, a tenant background check by the landlord often screens out the ex-offender. Additionally, without the benefit of transitional housing and supportive services (i.e., parole office, case manager), it is almost impossible for an offender to work on obtaining the necessary credit and rent payment history necessary to live independently and maintain permanent housing.

These individuals are at high risk of homelessness and recidivism. Affordable housing, and for some, supportive housing that is drug-, alcohol- and crime-free is critical if treatment and services are to be effective in assisting the offender to integrate successfully into the community.

For special needs' offenders to fully integrate into the community successfully, they need to be able to access mainstream resources, including SSI and Medicaid in a timely fashion after release. If clients are unable to receive benefits within a reasonable time frame, they are left with few options and many return to jail, prison or die. As stated in, *Holes in the Safety Net: Mainstream Systems and Homelessness*, Schwab Foundation, February 2003, Page 5: "Failure to appropriately discharge persons leaving institutional care is a contributing cause of

homelessness. Not only are people who were "housed" by the institution or system no longer housed when they exit, the support networks and the benefits to which they were entitled before they entered have often been lost as well. For example, inmates with mental illness (20% of all inmates nationally) who receive SSI and who are incarcerated for more than a year must re-apply for SSI benefits upon release."

## **PERSONS LIVING WITH HIV/AIDS**

### ***HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)***

Housing Opportunities for Persons with AIDS (HOPWA), a program of the US Department of Housing and Urban Development (HUD), provides funding for housing and housing-related services for people living with HIV/AIDS (PLWH/A) and their families. Eligible Metropolitan Statistical Areas (EMSA) and states receive direct allocations of HOPWA funding when 1,500 cumulative cases of AIDS are diagnosed in a region. The Portland EMSA is comprised of Clackamas, Columbia, Multnomah, Washington and Yamhill Counties, Oregon, and Clark and Skamania Counties, Washington. The City of Portland has received and administered HOPWA funding for the Portland EMSA annually since 1994, and has been awarded an allocation of \$1006,000 for FY 2004-2005.

On behalf of the community and upon recommendation from the City of Portland, the Bureau of Housing and Community Development (BHCD) hired AIDS Housing of Washington (AHW) in July 1999. AHW facilitated a community-based needs assessment and planning process and developed an HIV/AIDS housing plan for the Portland EMSA that will guide HOPWA allocations during the fiscal years 2000-2005. The Plan, published in April 2000, comprehensively documents the state of housing need for PLWH/A and sets out strategies to address them. In November 2003 An Update to the Portland EMA HIV/AIDS Housing Plan was published. Pursuant to Portland EMSA HIV/AIDS Housing Plan and under the guidelines of the Portland EMA AIDS Housing Advisory Committee, the following activities and outcomes are anticipated. The Planning Committee continues to meet to keep the plan relevant and up to date.

**TABLE 18. HOUSING FOR PLWH/A 2004-05**

<b>Activity/Service Area</b>	<b>HOPWA Funds Allocated</b>	<b>Provider</b>	<b>Anticipated Outcomes</b>
TRANSITIONAL HOUSING: MULTNOMAH, Clackamas, WASHINGTON AND YAMHILL COUNTIES	\$199,947	Cascade AIDS Project (CAP)	23-30 homeless households living with HIV/AIDS will be provided with transitional housing vouchers and case management directed toward moving to stable permanent housing in 12-18 months
TRANSITIONAL HOUSING FOR PLWH – YOUTH: MULTNOMAH COUNTY	\$37,863	Outside In	2-3 HIV-affected homeless youth will receive transitional housing assistance, intensive case management and supportive services as they complete a 12-18 month transition to housing stability.
TRANSITIONAL HOUSING: CLARK COUNTY, WA	\$93,608	Clark County Department of Community Services	4-8 homeless households living with HIV/AIDS in Clark County, WA will be provided with transitional housing vouchers and case management directed toward moving to stable permanent housing in 12-18 months
WAREHOUSE PROJECT: ALL COUNTIES IN EMA	\$57,072	CAP	50 households living with HIV/AIDS will receive household furnishings and/or moving assistance to assist with their transition from homelessness
PERMANENT HOUSING: RESIDENT SERVICES – MULTNOMAH AND WASHINGTON COUNTIES.	\$131,410	CAP	86 families living in affordable rental housing units for PLWH in the EMA will receive housing counseling, on-site supportive services and, where applicable, rental assistance to assist in the stabilization of their housing. An additional 14 households living with HIV who are participating in the City's Transitions to Housing Program will receive case management and support services as they transition to stable, permanent housing.
Rental Assistance Fund (including contingency)	\$87,997	CAP-Administered	
RESOURCE IDENTIFICATION - HIV/AIDS PLANNING COMMITTEE: ALL COUNTIES	\$3,742	BHCD and Committee Members	Conduct community planning, prioritization, education and training activities to help leverage and identify new resources to expand the housing opportunities of persons living with HIV/AIDS in the Portland EMA. Expect to secure \$200,000 in match resources to work with HOPWA funds.
AFFORDABLE HOUSING DEVELOPMENT: ALL COUNTIES	\$344,421	Selected through RFP	4-6 new units of HOPWA-eligible affordable housing that help meet the needs identified in the Plan.
BUREAU OF HOUSING AND COMMUNITY DEVELOPMENT ADMINISTRATION (3%)	\$30,180	Bureau of Housing and Community Development	Administer HOPWA entitlement to provide effective housing solutions for persons living with HIV and Aids in Portland EMA.

## OTHER SPECIAL NEEDS POPULATIONS

### **FARMWORKERS**

Farmworkers, or agricultural workers, are recognized as a special needs population in Multnomah County. There are three distinct sub-populations of farmworkers: migrant, seasonal, and year-round. Over the last ten years, the number of migrant and seasonal farmworkers has decreased, with a corresponding increase in the number of agricultural workers who reside in the County year-round. All of these sub-populations typically have household incomes below 30% MFI. The average wage for a general laborer is \$7.00 to \$9.00 per hour, depending on the type of crop. Farmworkers may be exempt from minimum wage laws, if they work at small farms, are minors, or work on a piece rate. The average annual wage in Multnomah County for migrant, seasonal, and year-round workers is from \$8,000 to \$18,000.

Farmworkers have other things in common as well. As a group, they are predominately Hispanic, and the vast majority are monolingual Spanish-speakers. Many are not-literate in either Spanish or English. They face racial, language and cultural barriers to housing and employment outside of the agriculture industry. They have not historically had access to housing. A disproportionate number live in sub-standard housing, where unsafe and unsanitary conditions prevail. For migrant and seasonal farmworkers, their need for short-term housing arrangements makes it difficult to secure better housing on the open market.

There is no current data on the number of agricultural workers now residing in Multnomah County. In 1989, the State Agricultural Commission reported that there were 3,898 persons employed in agricultural work. It is possible to estimate the number of farmworkers from other, more current data. One point of reference is the number of children of farmworkers currently enrolled in school. According to the Migrant Education database, 1,610 Hispanic students were enrolled in Multnomah County in 1998. This suggests that there are between 3,000 and 5,000 Hispanic agricultural workers in the County.

It is interesting to note that, of the 1,610 Hispanic students, 56 percent (867) were foreign-born. Statewide, 42 percent of Hispanic students enrolled in the migrant education program are foreign-born. This suggests that Multnomah County is attracting more recent immigrants than other parts of the state. This inference is confirmed by Multnomah County's recent Latino Needs Assessment, which describes the strength of the County's migration networks at bringing new immigrants to this area, where a sizeable Hispanic population already exists as a result of earlier migration to meet labor market demands.

Within Multnomah County, Migrant Education data reveals that about 75 percent of the children of farmworkers are enrolled in programs in Portland, with the next largest concentration in Gresham, and the remainder in Fairview and Troutdale. This suggests that the largest number of farmworkers reside in Portland, with a smaller but still significant population in Gresham, and lesser groups of farmworkers living in unincorporated areas of Multnomah County.

Farmworkers need an array of supportive services, including child care, bilingual education, assistance with immigration and citizenship, English language instruction, driver's education, and health care. Farmworkers also typically require assistance from local food banks.

In September, 2003 Larson Assistance Services released *the Migrant and Seasonal Farmworker Enumeration Profiles Study* (the Study). (The Study is available at [www.casaoeforegon.org](http://www.casaoeforegon.org).) This report estimated the number of migrant and seasonal farmworkers and their families in the state by county based on estimated agricultural employment in each county. According to the Study, there are an estimated 1,803 farmworkers working in Multnomah County. Counting dependants, the number is 3,014. This does not include the approximately 1000 year round farmworkers working in Multnomah County.

Multnomah County, Washington County, Clackamas County and Yamhill County together account for approximately 65% of the estimated 9,000 year round workers and 12,200 seasonal workers working in the nursery industry ("Oregon Nursery and Greenhouse Survey 1999", USDA Oregon Agricultural Statistics).

While the agricultural base of the county is not huge, a large number of farmworkers call Multnomah County their home. In part, this is because of the proximity of Multnomah County to the nurseries and vineyards of neighboring Washington, Clackamas, and Yamhill Counties. Multnomah County, because of its more urban development pattern, has historically offered more affordable housing opportunities than the other counties. Many of these farmworkers are doubled and tripled up in private rental units (houses, apartments and mobile homes). Multnomah County also offers excellent access to bi-lingual services (health, ESL, cultural events, etc.) to the primarily Spanish-speaking farm worker population.

## **FAIR HOUSING**

The three jurisdictions completed an *Analysis of Impediments to Fair Housing* (AOI) in May 1996, and identified strategies to address these impediments. Some of the actions that are key to addressing fair housing issues must be taken on a regional basis—not just within the boundaries of Multnomah County. Some of that regional work will continue to be processed by the recently formed Regional Affordable Housing working group.

The jurisdictions plan to complete an update to the AOI during FY 2004-05 by engaging a community-based planning process in concert with the development of the 2005-10 Five Year Consolidated Plan. The goal of the AOI update will be to provide a fresh analysis of impediments to fair housing and a current menu of strategies to overcome them.

— The City of Portland has conducted a planning process that has established a continuum of needed housing services for individuals and families. The Fair Housing section of this continuum currently includes Fair Housing Enforcement, a Landlord Tenant Fair Housing Hotline, Fair Housing Education, Legal Services for victims of fair housing violations, outreach and education to underserved potential home buyers, the Housing Connections project, and services to increase the supply of accessible housing.

The continuum planning process involved all regional stakeholders and developed findings and recommendations that dovetail with the needs assessment and strategies set out in the *Five Year Consolidated Plan 2000-2005* and in the Analysis of Impediments.

The jurisdictions plan to fund the following fair housing activities during FY 2004-05:

<b>Barrier Identified in Analysis of Impediments</b>	<b>Activity Addressing Barrier</b>	<b>Funds Allocated</b>	<b>Provider</b>	<b>Anticipated Outcomes</b>
Discriminatory Rental Housing Practices	Fair Housing Enforcement – Legal Assistance	\$43,868 Pdx-CDBG \$5,398 Gresh-CDBG \$10,000 Mult-CDBG	Legal Aid Services of Oregon	Direct Legal Assistance to at least 140 low-income persons to enforce their Fair Housing rights.
Discriminatory Rental Housing Practices	Fair Housing Prevention, Education, Coordination	\$17,575 Pdx-CDBG \$2,780 Mult-CDBG	Fair Housing Council of Oregon	Maintain Fair Housing Complaint hotline that will receive and process at least 100 calls from Portland residents with Fair Housing questions. Process intakes, coordinate enforcement services, conduct community outreach and education
Discriminatory Rental Housing Practices	Fair Housing – Protected Class Testing and Enforcement	\$12,059 City Gen Fund	Fair Housing Council of Oregon	15 paired complaint-driven Fair Housing tests to assist in evaluating complaints of Fair Housing violations. Activities to enforce the City's expanded civil rights ordinance.
Discriminatory Rental Practices	Fair Housing – Enforcement of City of Portland Ordinance	\$20,184 City Gen Fund	Oregon Bureau of Labor and Industries (BOLI)	Conduct up to 25 complaint investigations and administrative enforcement proceedings related to the City of Portland's civil rights ordinance, which includes fair housing provisions.

Renters with Disabilities – lack of accessible housing	Adapt-A-Home	\$77,953 (6 mos. funding, RFP expected Fall, 2004) Pdx-CDBG \$90,000 Gresh-CDBG \$64,500 Mult-CDBG	Unlimited Choices	Expand the stock of accessible housing for persons with disabilities by providing accessibility enhancements for approximately 130 housing units within Multnomah County.
Renters: Lack of Information about housing rights, responsibilities and options	Renter Stabilization and Education Program	\$39,808 Pdx-CDBG	Community Alliance of Tenants	Provide at least 2500 low-income Portland residents with information and referral services related to Fair Housing, landlord-tenant legal rights and renter responsibilities.
	Housing Assistance Project	\$4,600 Mult-CDBG	Legal Aid Services of Oregon	Landlord/tenant Information and counseling for up to 90 low-income households in E. Multnomah County.
	Housing Connections	\$151,063 Pdx-CDBG -HOME Note: Contributions from Regional entitlement jurisdictions pending	BHCD	Deliver Housing Connections.org, an accessible regional web-based hub of comprehensive housing opportunities and information.
		\$134,551 Pdx-CDBG	Provider to be selected	Develop services to assist Multnomah County residents with accessing and utilizing the information available through Housingconnections.org

Low Homeownership Rates and obstacles to first-time home buyers among minority communities	Homebuyer and Homeowner Counseling	\$107,242 Pdx-CDBG \$9,500 Gresh-CDBG	Portland Housing Center	Provide counseling and community education to expand housing choices and combat displacement through foreclosure and predatory lending for low-income Portland residents. Will assist at least 90 low-income home buyers/owners, with targeted outreach to underserved minority communities.
	Community outreach through Home Buyer Fairs	\$24,000 Pdx-CDBG	African American, Asian, Latino Home Buying Fairs.	
	Affordable Home Ownership	\$103,937 Pdx-CDBG	Portland Community Land Trust	Acquisition and development of owner-occupied housing through land trust and leveraged conventional home purchases for low-income home buyers.
		\$246,000 Pdx-CDBG	Provider uncertain	

The City of Gresham plans to fund the following fair housing activities:

Legal Services <i>Fair Housing Legal Assistance</i>	\$5,398
Unlimited Choices <i>Adapt-A-Home Program</i>	\$90,000
Fair Housing Council <i>Fair Housing Information</i>	\$250

Multnomah County will fund 2004-2005 Fair Housing Activities as follows:

Legal Aid <i>Fair Housing Legal Assistance Housing Assistance Project</i>	\$10,000 \$ 4,600
Human Solutions, Inc. <i>Transitional Housing Program</i>	\$31,351
Fair Housing Council <i>Fair Housing Enforcement</i>	\$2,780



## OTHER ACTIONS

### A. Addressing Obstacles to Meeting Under-served Needs

#### Regional Efforts

A significant development in the regional arena of planning and growth management was the adoption of the Regional Affordable Housing Strategy (RAHS) in January 2001. The RAHS represents several years work by Metro and local jurisdictions, including Multnomah County, Portland and Gresham, to come to terms with the disparities in the regional housing market and the differing levels of public response to long held goals of equal housing opportunity in the region. The RAHS establishes voluntary goals and does not provide funding to implement the goals. The impact of the RAHS remains to be seen but there is evidence of increased investigation by many communities into strategies that can bring about a greater range of affordability within local communities.

The year 2003 marked the second reporting period for local jurisdictions to document progress made in furthering affordable housing opportunities. Metro is currently tallying the results of the second round of reporting by local jurisdictions on progress made in accepting the voluntary affordability goals and any policies and regulatory or funding tools considered, adopted, or rejected by local governments.

Metro is planning to convene a new regional work group in the Fall of 2004 to examine the regional progress towards meeting the RAHS.

The Affordable Housing Work Group continued to meet on a bi-monthly schedule to coordinate affordable housing efforts. The Affordable Housing Work Group includes senior administrators of community development programs and housing authorities in Multnomah County, Clackamas County, and Washington County, Oregon and Clark County, Washington, as well as senior staff from HUD and METRO. The group has directed federal grant funds to projects serving the region, including HousingConnections.org, regional lead hazard abatement efforts, informational materials related to resource development efforts, and focus groups to understand the level of community awareness and understanding of affordable housing issues.

Efforts at the Oregon Legislature to obtain a regional real estate transfer tax or other dedicated resource for affordable housing were ultimately unsuccessful. Strategizing for the 2005 session is underway.

#### Portland Development Commission (PDC) Activities

The PDC, Portland's primary redevelopment agency, has a substantial role in implementing the adopted Portland City Housing Policy. The PDC Five-Year Plan includes a concerted focus of identifying and addressing the housing needs of Urban Renewal Districts. Housing components of new districts (Lents, River District, N. Macadam) and districts in planning (N. Interstate, Gateway) provide financing for an array of affordable housing types.

**Housing for Persons with Special Needs:**

Portland and Multnomah County completed strategic planning designed to increase the short and long-term development of rental housing for low-income residents with special needs, including severe and persistent mental illness, developmental disability, substance abuse disability, serious physical disability, or multiple disabilities.

The HCDC Special Needs Committee released its Report in July 2003. (See <http://www.portlandonline.com/bhcd/index.cfm?c+30136>). The Special Needs Report was adopted by the Multnomah County Commission, the Portland City Council, and the Board of the Housing Authority of Portland.

The Special Needs Report documented a need for a minimum of 7,890 units of permanent supportive housing for adults aged 18-64 in Multnomah County. The Report also documented the relationship between special needs and homelessness. People with special needs are more likely to have repeated episodes of homelessness and to remain homeless for longer periods. A workgroup has been set up to assess the need for permanent supportive housing for families with one or more members with special needs.

The Special Needs Report identified significant barriers that stand in the way of developing and maintaining an adequate supply of special needs housing. The Report recommends an approach to reducing these barriers that requires improvements in three areas: (1) coordinate housing + services to maximize success; (2) create enough housing for people with special needs; and (3) improve access to housing + services.

Aided by resources from a Taking Health Care Home Initiative funded by the Corporation for Supportive Housing and the Robert Wood Johnson Foundation, the City and County have undertaken implementation of the Special Needs Committee report recommendations. Two of the major goals are:

- Adding 400 units of supportive housing for persons who have been chronically homeless for the longest period of time in the next two years.
- Realigning local funding streams and priorities to create housing + service partnerships.

**B. Fostering and Maintaining Affordable Housing****Affordable Housing Preservation Program**

In November 1998, Portland adopted an Affordable Housing Preservation ordinance to address the threatened loss of properties with project-based Section 8 assistance. The strategy is to require notification to the City and to tenants when owners intend to opt out of the Section 8 contracts so that the City could attempt to acquire the property and preserve the contract. The 1999 State Legislature adopted a bill (HB2636) limiting the types of strategies that local governments can employ for this purpose. The City ordinance has been amended to bring it into conformance with the State law.

Since the passage of Portland's preservation ordinance, six properties (Biltmore, Park Terrace, 333 Oak, Kenilworth, Jefferson West and the Fairfield) with 497 units, have been acquired. Negotiations for one additional property is underway (50 units).

The City declined to acquire the 39 unit Western Rooms, but has provided relocation assistance for the residents.

### **C. Removing Barriers to Affordable Housing**

#### System Development Charge Exemptions

With the adoption of Systems Development Charges (SDCs) to help fund parks and transportation improvements, the City of Portland extends the exemption to both nonprofit and for-profit developers of affordable housing.

#### Gresham

In January 2002 and January 2003, Gresham provided reports to Metro on land-use and non-land use tools it has adopted to support the development of affordable housing and to remove barriers. The following is a list of the tools Gresham has adopted:

- Voluntary inclusionary housing through financial incentives
- Removal of code barriers related to development of housing for the elderly and persons with disabilities (For example, community service uses allowed in all non-industrial zones, flexibility permitted in parking requirements, accessory dwelling units allowed in many residential districts, building code requires all new first floor multifamily units be adaptable to persons with disabilities, etc.)
- Removal of regulatory constraints, including provision of altered (streamlined) routing of projects, and code simplification.
- Updates to parking requirements for multi-family and single-family dwellings
- Transit-oriented tax exemption
- Extensive use of federal funds to support affordable housing development
- Regional cooperation
- Teacher and Officer Next Door programs
- Use of CDBG funds to support infrastructure development for affordable housing

In June 2004, Gresham will provide the final update to Metro.

### **D. Developing the Institutional Structure**

#### Gresham

The Urban Renewal Program for Rockwood-West Gresham will be part of the Community Revitalization Program. In the future, this will promote "joint leveraging" of CDBG/HOME and TIF funds to improve the area. While Gresham does not envision departing from its competitive process for awarding CDBG and HOME funds, the kind of planning that will be occurring for

Rockwood will promote the pro-active development of funding applications that play a strategic role in overall Rockwood revitalization and fit into a bigger picture.

Gresham participates in activities with other jurisdictions and agencies to better serve the needs of low-income households. Specific examples include the following:

- Gresham participates in the Blue Ribbon Committee that is studying the need for an ongoing regional funding source for affordable housing.
- Gresham and Multnomah County work closely together on soliciting applications for CDBG and HOME funds and implementing projects.
- Members of Gresham's Police and Community Revitalization programs attend monthly "Gresham" meetings with staff from the Housing Authority of Portland. Several significant achievements, including the opening of a HAP office in Rockwood and the use of HAP funds to assist with staffing costs for a police officer to support their properties, have resulted from HAP's response to these meetings.

*Continuing Role of the Housing and Community Development Commission (HCDC)*

The Countywide HCDC continues its role as an inter-jurisdictional policy recommendation body representing Multnomah County and the Cities of Gresham, Portland. This body was key in promoting the 60-year affordability requirement for projects receiving local subsidies.

HCDC is changing its configuration of subcommittees. The Housing Evaluation Group (HEG) will be disbanded, and a new committee established to report on the success of the various components of the housing system at meeting production goals. This groups will also produce white papers on specific issues in housing development, preservation, and delivery.

The Advisory Committee on Homeless Issues (ACHI) has also been disbanded, and its functions reassigned to the Citizen's Committee on Homelessness (CCEH) and its Coordinating Committee and working groups. The McKinney working group is responsible for overseeing the Continuum of Care for Homeless People, as well as recommending priorities and funding for projects in HUD's annual national competition for McKinney funds.

The Special Needs Committee, established in January 2002, released a Report in July 2003 address the housing and service needs of people with special needs, including physical disabilities, severe and persistent mental illness, developmental disabilities, substance abuse issues, and multiple disabilities. The Special Needs Committee (SNC) membership includes high-level decision makers from local housing and service providers, local elected officials (or key staffers), consumers, advocates, state and local funders and policy makers. The Special Needs Committee is now overseeing implementation of the Report recommendations. In cooperation with the CCEH, an SNC subcommittee is taking on the evaluation of the various rent-assistance programs currently offered.

The Home Ownership Advisory Committee will continue to review and recommend policy for the City of Portland's home ownership assistance programs and will monitor the outcomes of these programs annually. Its current focus is closing the minority homeownership gap.

**E. Evaluating and Reducing Lead-Based Paint Hazards**

The City of Portland Bureau of Housing and Community Development, the Multnomah County Health Division, and the Portland Development Commission continue their partnership in the Portland Lead Hazard Control Program, funded by a grant from the U.S. Department of Housing and Urban Development. This program provides lead hazard control activities and blood lead testing in low-and moderate-income households, prioritizing those inhabited by children under the age of six.

An education and outreach component of the grant provides for the dissemination of informational literature addressing lead hazards, providing workshops and training session to populations effected by lead, and increasing community awareness and collaborative efforts around lead issues.

The goals of lead hazard reduction are further promoted in the City of Portland and Multnomah County through funding by the Portland Water Bureau. The Portland Water Bureau has been funding lead hazard reduction efforts since 1997 in compliance with the EPA's Lead and Copper Rule for drinking water. They realized that childhood lead poisoning is more likely to happen from lead in homes than the low lead levels in Portland's water supply and pipes. The Water Bureau provides annual funding to BHCD to administer for lead hazard reduction and education and outreach services. This partnership creates a single comprehensive lead program for the City of Portland, allowing streamlined services to be provided to the community.

The issuance of new lead-based regulations has prompted a review of all housing related programs to evaluate how those programs must be modified to meet the new regulations and to reflect the cost impact of compliance.

**F. Reducing the Number of Poverty Level Families**

Please refer to the discussion of the Anti-Poverty Strategy in Section 6 of the *Consolidated Plan 2000-2005*.

***Multnomah County***

Multnomah County has developed a Poverty Elimination Framework to guide policy and allocations of resources to the goal of moving people out of poverty. Strategies to implement the Framework are still under development. The Framework will be described in detail in the Consolidated Plan 2005-2010.

***Gresham***

Gresham's Community Development and Housing Committee produced a report in fall 2003 entitled A Statistical Profile of Poverty In Gresham. A copy is appended to this Plan. The report and cover letter was widely distributed to many policy-makers, agencies and others who provide services or direct funding that affect the lives of persons in poverty.

The report describes how the profile of people experiencing economic poverty in Gresham is different from the profile of people in poverty in other places. In Gresham, poverty hits hardest on young working families, particularly those with children under the age of 5. Poverty of scale is a relatively new phenomenon in Gresham.

Since Gresham itself is not a major social service provider---most funding and services are provided by Multnomah County, state or federal programs---one of the most important things that Gresham can do is to let those who do manage these programs and resources know Gresham's unique needs. This report is intended to start that information flow.

The publication of this report is an important first step in communicating clearly (and with statistical validity) about the needs of households, families and individuals in Gresham who are experiencing economic poverty. In future years, Gresham looks forward to continuing this work by partnering with Human Solutions and other groups to convene interested parties, perhaps in a conference format, to better organize and mobilize community resources to meet the needs of Gresham's most vulnerable residents.

### Portland

Portland's new strategic plan is more focused on the lowest income people (0-50%) MFI. The Economic Opportunity objective has a goal of increasing the income and assets of individuals at 0-50% MFI. See the discussion of the Economic Opportunity program, above. The strategic plan and its implementation will be described in greater detail in the Consolidated Plan 2005-2010.

## **G. Enhancing Coordination between Public and Private Housing and Social Service Agencies**

### Central City Housing

The Downtown Housing Occupancy Work Group - comprised of four downtown social service agencies, nonprofit housing organizations, the housing authority, and others--will continue to meet monthly. The group focuses primarily on downtown housing which has been developed with local public subsidy and/or has rent assistance through the housing authority. Often managers, both from nonprofits and private firms, are invited to problem solve with the group on specific buildings.

### Interagency Housing Meeting

The Multnomah County Office of School and Community Partnerships facilitates monthly meetings of the "Interagency Housing Meeting." The participants in this team include representatives from more than 40 agencies, such as domestic violence, the Housing Authority of Portland, mental health agencies, Adult and Family Services, workforce development programs and several not-for-profit services to homeless families. Also included in this group are "Housing Specialists" professionals who actively assist people to access housing. Agencies involved serve families with children, singles, including people with disabilities, and seniors. In an effort to obtain housing for their consumers, individuals who attend this meeting relate daily to landlords in the private sector.

The objectives of this meeting include becoming knowledgeable about services available in the community for homeless families and sharing resources. The ultimate goal is to assist families who are without housing, or are at risk of losing their housing, to enter into a stabilized, permanent housing arrangement.

**Strengthening Housing and Services Partnerships**

The Strengthening Housing and Services Partnerships Oversight Committee was convened to undertake strategies recommended by the Special Needs Committee and the Corporation for Supportive Housing Initiative to foster coordination among housing and service providers. This 12-member Oversight Committee has equal representation among housing and services providers. The primary goal of this Oversight Committee is to provide oversight in the revitalization of the Fresh Start Program. This program bridges the homeless system, service systems and housing by expanding the pool of mainstream housing providers willing to accept people with housing barriers, such as criminal history, poor rental or credit history, and erratic income. The secondary functions of this committees are to monitor other tools that strengthen and develop housing and service partnerships and oversee the activities of four other strategies. These four strategies are: 1) Managing Technical Assistance resources for housing providers interested in hard-to-house capacity building; 2) Developing cross-training curriculum for service and housing providers; 3) Promoting Housing Providers and County Managers information sharing; and 4) Devise ways to share information about hardest-to-house individuals to improve their access to services and success in housing while respecting their right to privacy.

## **HOUSING PROVIDED BY THE HOUSING AUTHORITY OF PORTLAND (HAP)**

HAP is the largest provider of affordable housing in Oregon, serving all of Multnomah County since 1992.

## **THE MISSION OF THE HOUSING AUTHORITY OF PORTLAND (HAP)**

HAP's mission is to assure that the people of the community are sheltered. HAP has a special responsibility to those who experience barriers to housing because of income, disability or special need.

HAP will continue to promote, operate and develop affordable housing that engenders stability, self-sufficiency, self-respect and pride in its residents and represents a long-term community asset.

HAP will be a community leader to create public commitment, policy and funding to preserve and develop affordable housing.

## **STRATEGIC DIRECTION**

In February 2003 the HAP Board of Commissioners affirmed four key strategic initiatives that will guide the agency over the next five years, as follows:

- Promote successful residency leading to increased self-sufficiency
- Develop and manage our real estate assets with the most effective blend of public and private sector practices
- Increase organizational effectiveness
- Provide leadership on affordable housing issues that impact Multnomah County

HAP's goals, decisions and work plans are developed within the context of these four strategic initiatives.

## **HOUSING PROGRAMS**

In January 2004, HAP's Housing portfolio comprised:

- Public Housing units: 2,311
- Affordable housing units: 3,391
- Special Needs units: 414
- Section 8 vouchers: 7,837
- Multnomah County residents served: 32,600

HAP's plans for Capital Improvements 2004-2005 are given in Table 19.

HAP has entered a period of significant change, due to the implementation of the HOPE VI program at New Columbia, formerly known as Columbia Villa. (A more detailed report on HOPE VI/New Columbia is given below.) Changes include:

- Temporary reduction of Public Housing units due to the deconstruction of Columbia Villa (462 units)
- Temporary slowdown in conventional Section 8 tenant-based vouchers, due to relocation of Columbia Villa residents
- Opportunity for the development of 92 new Project-based Section 8 units, made available to Community Development Corporations and other qualified partners as replacement housing for Public Housing units reduced at Columbia Villa



## **ACCESS TO HAP HOUSING AND SERVICES**

HAP is committed to making it easier and more efficient for potential and existing residents to access HAP and our partners' range of services.

### ***HOUSING CONNECTIONS***

To that end, HAP has been a participant in "Housing Connections", the web-based rental database program developed by the City of Portland Bureau of Housing and Community Development. Computer terminals for potential and current residents/participants are available at four HAP office locations countywide. (Note: During Section 8 mover orientations, staff explain the benefits of using Housing Connections, and also distribute an information sheet).

### ***HAP EAST METRO OFFICE***

On November 4th 2002 HAP opened a new office in Rockwood, Gresham, staffed by an inter-departmental staff team, providing on-site information, referral and emergency support for current and potential residents/participants.

(In August 2004, an expanded East Metro Office ("EMO") opened at a new location, which is a full-service Section 8 office. The office was opened to better serve the 2,500 Section 8 participants who live in East County. Participants, applicants and landlords can receive the same services at the expanded EMO as they do downtown. People can go to whichever office is more convenient. The EMO has staff who speak Russian and Spanish, a Housing Connections kiosk and also accept public housing applications at the site.)

## **NEW COLUMBIA**

### ***BACKGROUND***

In 1993, the U.S. Department of Housing and Urban Development (HUD) created funding, in the form of HOPE VI grants, to revitalize the country's aging public housing. In late 2001, after a twelve-month process to prepare an application for the highly competitive grants, HUD notified HAP that it had been awarded a \$35 million HOPE VI grant that would anchor a \$150 million investment in New Columbia.

The Columbia Villa public housing community, located in the Portsmouth neighborhood of North Portland, was built in 1942 for World War II defense workers. Columbia Villa was home to almost 1,300 residents who lived in 462 units scattered over 80 acres. The ethnic composition of the families living at Columbia Villa reflected the most diverse census tract in Oregon. In June 2002, HUD and HAP signed the \$35 million grant agreement adopting the project schedule.

**Project Goals**

New Columbia will create an improved and viable neighborhood of diverse housing types and residents by concentrating on four principles:

- Replacing unattractive, impersonal, barracks-style buildings with townhouses, garden-style apartments and single-family dwellings that blend aesthetically into the environment
- Reducing the concentration of poverty in Columbia Villa by building a neighborhood of varied types of housing, rented and owned, to attract economically diverse residents
- Providing supportive services to help residents get and keep jobs and build assets and equity in the community
- Establishing and maintaining high standards of personal and community responsibility through explicit lease requirements and home ownership

**Housing Mix**

The housing mix of 850 units on the New Columbia site will include public housing, affordable rental housing, elderly housing and homes for sale.

In addition to new parks, public facilities will include community centers, recreational facilities, day care, and adult learning centers. An additional 92 public housing units will be built off-site to help lessen concentrations and make sure that there is no net loss of public housing in the city.

**Economic and Community Benefits**

While pursuing the project goals that HAP has identified, the project will also have a positive impact on the local economy. The expenditure of \$100 million on construction and construction related activities will create new jobs. Further, the market rate homeownership aspects of New Columbia will result in a net increase in the property tax receipts currently derived from this 80-acre site.

**Project Timeline**

- In March 2003, HAP began the process of relocating residents, offering them a choice of other public housing or Section 8 rent vouchers. All residents were successfully relocated by October 2003 with 56% remaining in north and northeast Portland. Each household received extensive assistance and continues to be eligible for ongoing supportive services (totaling 42 months).
- Construction of new infrastructure began in December of 2003 and construction of new rental housing will begin in May 2004. The final phase of construction will be completed by the end of 2006. To successfully design a master plan for the redevelopment, HAP conducted an extensive community involvement process – engaging residents, Portsmouth neighbors, and many community partners.

- Current and new residents will begin returning to New Columbia as early as the summer of 2005 when the first phase of residential buildings is complete.
- HAP is serving as master developer, working with an array of government, financial, and community partners and will create economic development opportunities by encouraging participation by targeted MWESB businesses in all phases of the work.

A Community Advisory Committee and associated task forces continue to serve as the key link between the project and the public as the project is implemented. Starting in July 2002, the CAC met once a month to review and discuss different aspects of the project. In January 2004, the meeting schedule was adjusted to a quarterly schedule to reflect the shift from planning to implementation.

## ***HAP RESIDENT/PARTICIPANT PROGRAMS THROUGHOUT MULTNOMAH COUNTY***

### **Self Sufficiency Programs**

#### ***GOALS Program***

Since 1994, HAP has offered the HUD Family Self Sufficiency (renamed the GOALS) program. 322 GOALS graduates received an average of \$6,090 in escrow savings upon program completion; 122 became homeowners upon leaving public housing assistance. Nearly 625 have active GOALS contracts, with an additional 350 on a Wait List. HAP's 10 GOALS staff speaks a total of 16 languages. In addition, all residents of New Columbia will have access to GOALS services through the HOPE VI project.

#### ***ETAP Program***

Since 1998, HAP has offered the Evening Trades Apprenticeship Preparation (ETAP) program for its residents. ETAP provides construction trades training, job placement, and entry in certified apprenticeships. The HOPE VI New Columbia deconstruction and new construction phases will have strong ETAP employment participation. ETAP is funded through a HUD ROSS-Apprenticeship grant.

#### ***Employment Preparation:***

Funded in part through a HUD 2001 ROSS-Resident Services Delivery Model (ROSS-RSDM) grant, GOALS participants and other HAP residents receive employment preparation and case management assistance. Our major partner in these efforts is the Portland Community College Workforce Network, operating out of the GOALPOST One-Stop Career Center satellite in Columbia Villa. A 20-station Computer Learning Center and Employment Resource room are available for skills training and job search. During HOPE VI construction, these services will be available in coordination with the Oregon Department of Human Services at its 6443 N. Lombard Street location. HOPE VI staff will also strongly support employment preparation and job search for New Columbia residents and neighbors.

*Homeownership Preparation:*

Funded in part through a HUD 2002 ROSS-Resident Homeownership Supportive Services (ROSS-HSS) grant, GOALS participants and other HAP residents receive homeownership preparation counseling and case management assistance. Our major partner in these efforts is the Portland Housing Center. Residents also have access to enroll in HAP's Pilot Section 8 Homeownership, or "Accessing the American Dream" scattered site homeownership programs. A GOALS Homeownership Specialist with 14 years realtor experience is on staff and available to provide technical expertise and assistance.

*Youth Services:*

By September 1, 2003, all funds from HUD Public Housing Drug Elimination Program (PHDEP) will have been expended. HUD has discontinued this program nationwide, amounting to a local \$680K annual and continuing shortfall in funding for HAP youth services across the County. HAP is actively exploring options for maintaining essential Youth services at our family developments, including application to OCVAS to become an AmeriCorps sponsor.

**RESIDENT SERVICES COORDINATION****Elderly and Disabled:**

Since 1997, Resident Service Coordinators (RSC) have been providing services to residents in ten of HAP's mixed population high-rises. RSC's link elderly and disabled residents with services and resources they need to preserve their housing, while promoting independence, dignity and quality of life. Resident Service Coordinators also serve as a catalyst for problem solving, conflict resolution, community building and assist in supporting property management. Resident Service Coordination is funded through HUD's Resident Opportunities Self-Sufficiency grant.

**Family developments:**

While our successful GOALS Self Sufficiency program offers a solid pathway for families ready to seek freedom from public assistance, HAP realizes that not all families are ready for such a step. Through HOPE VI, HAP is adapting its Resident Services Coordination system currently in use for the Elderly Disabled population, for these New Columbia families. HAP will also offer similar programs at several of its Affordable Housing sites located throughout the County.

**TABLE 19. HAP PLAN FOR CAPITAL IMPROVEMENTS, 2004-2005**

<b>Development</b>	<b>Work Items</b>	<b>Estimated Cost</b>	<b>Status</b>
Hollywood East/Williams Plaza	HVAC Upgrade	547,479	In progress
PHA Wide	Roofing	250,000	In progress
Townhouse Terrace	Site improvements	187,000	In progress
Camelia Ct and Eliot Square	Door replacements	56,087	In progress
Hillsdale Terrace	Concrete ramp to community room	125,000	In progress
Holgate House	Move trash system to exterior	257,000	In progress
PHA Wide	Vacate Carpeting	60,000	In progress
PHA Wide	A&E Services	118,000	In progress
Medallion	ADA/ Community Room	400,000	In progress
Hillsdale Terrace	Ramp to Community Room	125,000	In progress
Holgate House	Emergency Pull Stations	40,000	In progress
PHA Wide	HUD Audit ADA upgrades	300,000	
PHA Wide	Sewers at scattered sites	21,000	
Gallagher Plaza	Pressure/shower valves	50,000	
Schrunk Tower	Roofing	40,000	
Williams Plaza	(7) window replacement	7,000	
Maple Mallory	Dwelling Improvements -Electrical	500,000	
Holgate House	HVAC Upgrades	150,000	
Sellwood Center	HVAC Upgrades	150,000	
Peaceful Villa	Boiler Room Piping, Sanitary System	250,000	

**Total** 3,633,566

*Note: The above-listed work is in priority order and is dependent upon amount of annual Capital Fund Grant from HUD to HAP.*

## **PROGRAM-SPECIFIC REQUIREMENTS**

### ***CITY OF PORTLAND***

#### **Recapture Provisions**

The units funded with HOME funds as part of the City of Portland's Shared Appreciation Mortgage (SAM) program will have a 25-year period of affordability. The SAM agreement describes an equity recapture formula that is based on the amount of subsidy the City provides to the homeowner or developer. The amount of equity recaptured by the SAM will never be more than 50 percent of the total realized equity appreciation.

**Resale Provisions**

Homebuyers participating in the City of Portland's HOME-funded Community Land Trust program will agree to resale provisions. The homeowner will take title to the improvements and will sign a 99-year lease for the land with the nonprofit community land trust, which will hold the land. Upon resale, the value of the land will not be included in the sales price to the new eligible homebuyer.

***CITY OF GRESHAM*****Recapture Provisions**

HOME regulations require that the City of Gresham state in its Consolidated Plan Update annually the method that it intends to use to ensure that the benefit of the federal investment in its homebuyer programs accrue to low and moderate income households for the HUD-required affordability period (which is a minimum of 10 years for a subsidy of \$15,000 - \$40,000).

The primary method that the City of Gresham uses is the Shared Appreciation Mortgage (SAM), the provisions of which are modeled on the SAM pioneered by the Portland Development Commission. The SAM requires that, if the homebuyer chooses to sell her/his house or no longer live in it as her/his principal residence within 30 years of the house purchase, the homebuyer must repay the principal amount of the SAM and also a share in the appreciation not to exceed 50%. The formula and definitions used to determine the amount of the adjusted appreciation are provided in the mortgage document itself and can be obtained by contacting the City of Gresham, Community Revitalization Program. The SAM is a form of recapturing the initial investment (plus a share in the appreciation) so that these funds can be provided to address other affordable housing needs in the future.

As indicated in the application materials, the City of Gresham will also consider models that use a resale restriction, such as a land trust or a form of a deed restriction or land covenant. In this option, a mechanism is provided that requires that the property be sold at an affordable price to an income-qualified buyer (80% MFI or less, as provided in the deed restriction or land covenant) for a specified number of years or in perpetuity. The City of Gresham will review proposals for resale provisions on a case-by-case basis to ensure compliance with HUD requirements.

The Buyer-Initiated SAM is available throughout Gresham, with first priority given to eligible applicants from Rockwood, then all of Gresham, then without regard to residency. The Developer-Initiated SAM is only available to developers undertaking development in Rockwood.

## **HOME**

### **Community Housing Development Organizations (CHDOs)**

The Portland HOME Consortium continues to set aside 15 percent of its HOME grant, or \$727,568 for FY 2003-04, for CHDO development projects. We hope to involve CHDOs in a variety of rental housing projects in both the new construction and rehabilitation categories. Most of the programs identified for CHDO participation will provide general rental housing, but CHDOs may also be involved in some special needs housing. CHDOs will be eligible to participate in programs and projects in addition to those identified in the set-aside. We expect to provide operating support to CHDOs, and we have budgeted \$243,411 for this purpose for FY 2003-04. Each jurisdiction in the Consortium has identified possible CHDO projects and has made a commitment to working with CHDOs.

### **Specific HOME Submission Requirements**

#### **Recapture Provisions**

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*Resale Provisions*

Home buyers participating in the City of Portland's Community Land Trust program will agree to resale provisions. The homeowner will take title to the improvements and will sign a 99-year lease for the land with the nonprofit community land trust, which will hold the land. Upon resale, the value of the land will not be included in the sales price to the new eligible homebuyer.

*Refinancing Guidelines for HOME-Assisted Projects*

The City of Portland may, from time-to-time, allocate HOME funds to refinance existing debt on multifamily projects undergoing HOME-assisted rehabilitation when refinancing is necessary to permit or continue affordability as defined at 24 CFR 92.252 (1999). For projects undertaken under this provision, the following guidelines shall apply:

1. The minimum period of affordability under the HOME program rules shall be at least 15 years from the date of the refinance, regardless of the amount of HOME funds invested. By City Policy, the period will typically be 60 years.
2. Refinance with HOME funds shall only occur in projects that can demonstrate that the primary activity to be undertaken is rehabilitation. In order to demonstrate that this guideline has been met, the cost of rehabilitation must equal at least 50 percent of any additional funds (HOME and other funds) invested as part of the refinance (a 1:2 ratio).
3. Prior to committing funds to refinance, the Portland Development Commission, on behalf of the City, shall conduct a review of management practices at the property applying for refinance to demonstrate that disinvestment has not occurred, that the project has viability for the longest applicable period of affordability and that the project can continue to serve the target population.
4. Projects are eligible for HOME-funded refinance under these guidelines to either maintain existing affordable units, to create additional affordable units, and/or to increase the level of affordability in existing units.
5. Projects are eligible for refinance so long as they are within the geographic boundaries of the Portland HOME Consortium.

HOME funds cannot be used to refinance loans made or insured by any Federal program, including CDBG and HOME.



**Gresham**

HOME regulations require that the City of Gresham state in its Consolidated Plan Update annually the method that it intends to use to ensure that the benefit of the federal investment in its homebuyer programs accrue to low and moderate income households for the HUD-required affordability period (which is a minimum of 10 years for a subsidy of \$15,000 - \$40,000).

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**Tenant-Based Rental Assistance**

The Portland HOME Consortium plans to fund a tenant-based rental assistance project under the HOME program for FY 2003-04. This program will be offered throughout all three jurisdictions in our Consortium and will be administered by the Housing Authority of Portland (HAP). The program will focus on assisting families and other special needs households transitioning from homelessness to permanent housing and those at risk of eviction and homelessness. We may also provide assistance to households in rental projects being rehabilitated under the HOME Program.

Subsidies will provide assistance with up-front costs of obtaining housing (security deposits, first and last months' rent) and short-term rental assistance for households transitioning to self-sufficiency. Subsidy amounts for each household are expected to be relatively small, compared with traditional rental assistance programs.

We currently have a variety of local rental assistance programs and resources. Our goal is to use the HOME Rental Assistance Program to complement these other resources. Because of this, we will shift emphasis among the population groups or forms of subsidy described below as necessary to achieve a balanced delivery of services.

The following procedures describe our tenant-based rental assistance program. Any changes will be documented in a revised program description, to be maintained in the grant file.

*Procedures for Tenant Selection*

Households will be selected in a manner consistent with the preference rules established under section 5(c)(4)(A) of the Housing Act of 1937. The Housing Authority will establish written tenant selection policies and criteria. Eligible applicants will be placed in one of the following groups:

- A. Homeless in case management program.
  - A-1. Homeless families with children.
  - A-2. Homeless individuals or couples.
- B. Persons and families with a disability whose rent is more than 50 percent of their income and who are in a case management or treatment program.
  - B-1. With a mental illness.
  - B-2. With a developmental disability.
- C. Persons and families facing immediate eviction, whose rent is more than 50 percent of their income, and who are willing to work with a case manager until their financial situation stabilizes.

Within each group, assistance will be provided in order of the date and time the application is received.

Exception: Eligible residents of a rental project being rehabilitated under the HOME program will be selected for assistance without being placed on the waiting list.

Payment Process: Payments may be sent directly to the family receiving assistance. Checks will then require the endorsement of both the head of household and landlord.

Terms of Rental Assistance: HAP will enter into a rental assistance contract with the family. The terms of each contract will be governed by the type of rental assistance provided, and the preference group that the family is in. The term of the rental assistance contract will not exceed one year, but may be renewed.

Process for Determining that Rents Are Reasonable: A rent-reasonableness survey, based on statistics provided by the Apartment Data Center, is updated by HAP at least annually. Rent figures for unit sizes not available in the Apartment Center's survey (such as SROs) will be based on documentation developed by HAP and information received from the local HUD Economic Marketing and Development Department.

If the contract rent equals or falls below the current survey figures, a certification of the rent reasonableness will be documented in the rental assistance contract file. If the proposed contract rent exceeds the rent survey figures, a detailed documentation form justifying the above average rent must be completed and approved by the Rental Director. Assistance contracts cannot be executed without written approval for above-average rents.

Rent reasonableness will generally be determined in conjunction with the Housing Quality Standards (HQS) inspection. If an HQS inspection is not performed, the necessary information for a rent reasonableness determination will be obtained through interviews with the landlord and tenant.

Rent Standard: The rent standard will be the Fair Market Rent (FMR) established for the applicable bedroom size.

Maximum Subsidy: The maximum subsidy amount will be no greater than the difference between the rent standard for the unit size and 30 percent of the family's monthly adjusted income.

From time to time, specific standards for assistance with security deposits, first and last months' rent, and monthly rent assistance for families with children, homeless singles or couples and persons with a disability may be established or amended. These will be published in amendments to the HOME Program Description.

Minimum Tenant Contribution to Rent: The minimum tenant contribution to rent will be 30 percent of adjusted income.

### **Other Forms of Investment**

The Consortium does not use forms of investment other than those described in 234 CFR 92.205(b).

### **Affirmative Marketing Program**

In accordance with the regulations of the HOME Investment Partnership Program contained in 24 CFR 92.351, the Portland HOME Consortium will utilize an affirmative marketing program.

#### *Efforts by the Consortium and Subrecipients*

The City of Portland, Multnomah County, and the City of Gresham will use the following methods of informing the public, owners, and potential tenants about fair housing laws and the affirmative marketing policy:

- Include the Equal Housing Opportunity logo, slogan, or statement in all press releases, advertising, brochures, etc., which describe the HOME Program.

- Provide funding to Fair Housing programs that provide information and education services to citizens regarding fair housing laws and policies. These programs include a variety of fair housing activities including workshops, development of publications, and staff or contractors who provide one-on-one technical assistance from property owners and tenants. Staff or contractors will be available to provide special outreach and technical assistance to HOME Program participants on an as-needed basis.
- Inform owners about affirmative marketing requirements through the use of a certification and distribution of fair housing posters, master equal opportunity logos, and marketing outreach list.
- Make Housing Connections available at no cost to market all HOME-assisted units broadly.

**Efforts by Property Owners**

Property owners receiving assistance under the HOME Program will be required to execute an Affirmative Marketing Certification for any property with five or more HOME-assisted units. This Certification will include requirements for maintaining fair housing policies and affirmative marketing efforts.

Owners of properties with five or more HOME-assisted units will be required to report on their affirmative marketing efforts during the federally-imposed period of affordability (between five and twenty years, depending upon the level of assistance provided). This report will provide information on demographic records of tenants and marketing efforts used to recruit tenants to fill vacant units.

**Special Outreach Efforts**

Special outreach efforts will be required to attract those persons least likely to apply for housing. Owners of projects in neighborhoods with minority concentrations will be required to use media and recruiting sources likely to reach non-minority renters. Conversely, owners of projects in neighborhoods without minority concentrations will be required to use media and recruiting sources likely to reach minority renters.

The consortium will annually assess and evaluate the effectiveness of special outreach efforts in meeting goals identified in the Analysis of Impediments to Fair Housing and may occasionally recommend or require that recipients of HOME funding undertake specific procedures. The consortium anticipates that it will update the Analysis of Impediments during the period covered by the *Plan*, and that the update will include an evaluation of the Affirmative Marketing Program and recommendations to make it more effective.

## ***MINORITY AND WOMEN BUSINESS ENTERPRISE OUTREACH PROGRAM***

In accordance with the regulations of the HOME Investment Partnership Program contained in 24 CFR 92.352 (a)(5), the Portland HOME Consortium will utilize the minority and women business outreach program.

### **Efforts by the Consortium and Subrecipients**

The bulk of the contracting opportunities under the HOME Program will be carried out by property owners, rather than the Consortium jurisdictions or subrecipients. In any direct contracting carried out by Consortium members and subrecipients, affirmative outreach efforts will be required. For any contract over \$10,000, outreach will include (1) advertising contracting opportunities in minority media; (2) registering plans and specifications with plan centers, and (3) direct outreach to potential bidders identified from the list of certified minority and women business enterprises obtained from State of Oregon Office of Minority and Women Business. For any contracts under \$10,000, the contractor solicitation process will include direct outreach to potential bidders from the list of certified business. Subrecipients that are public agencies, and have adopted purchasing procedures, will use those procedures.

The City of Portland and the Portland Development Commission anticipate that they will continue to provide financial support to the Housing Development Center to provide technical assistance and capacity building for small contracting firms that are candidates for subcontracting on HOME-funded projects.

### **Efforts by Property Owners**

Property owners receiving assistance under the HOME Program will be provided with minority and women business enterprise outreach materials and counseled on involving businesses in available contracting opportunities.

- All property owners will receive a current list of Minority and Women Business Enterprises that have been certified by the State of Oregon Office of Minority and women Business.
- All property owners will receive a listing of minority media and plan centers.
- For contracts under \$100,000, owners will be encouraged to solicit quotes from minority and women business enterprises and to use minority media and plan centers to notify businesses of contracting opportunities.
- For contracts over \$100,000, owners will be required to use formal advertising and bid procedures. Owners will be required to publish requests for bids in minority media and register plans and specifications at appropriate plan centers.

- In soliciting for contractors, property owners will be required to include language encouraging prime or general contractors to use minority and women business enterprises as subcontractors.
- All owners will be required to report on their efforts and accomplishments in involving minority and women business enterprises in contracts.

**Oversight**

The Director of the City of Portland, Bureau of Housing and Community Development will have oversight responsibilities with respect to the Minority and Women business Outreach program. As part of the CAPER, the Consortium will report on success in involving minority and women business enterprises in both direct contracts of participant jurisdictions or subrecipients, and property owner contracts funded under the HOME Program. This report will include an assessment of outreach efforts and make recommendations for any changes or improvements to the outreach program. To the extent practicable, the updated Analysis of Impediments will similarly assess the MBE/WBE outreach efforts of the Consortium.

**MONITORING**

Some projects are funded by more than one jurisdiction. To reduce administration and monitoring, interagency agreements state that only one jurisdiction will manage a project and management responsibilities will alternate between jurisdictions.

***CITY OF PORTLAND: HOME, ESG, HOPWA, AND CDBG***

The BHCD provides monitoring for CDBG, ESG, HOME and HOWPA-funded projects. Monitoring activities may include program performance, fiscal accountability and regulatory compliance and may involve internal file review and/or on-site reviews. An objective of all internal file reviews and on-site reviews is to ensure that the City will meet the goals and objectives set forth in the Consolidated Plan. Program Managers select the projects to be site monitored for program performance and regulatory compliance based on completion of internal file reviews. Program Managers work with fiscal staff to determine which projects will also receive a fiscal review. Generally, projects which receive large amounts of City funding, projects which are administered by unsophisticated or inexperienced organizations, projects which appear to be having difficulties in meeting contract or program requirements, and projects which require more intensive technical assistance receive priority in establishing a monitoring schedule. Additionally, BHCD has recently created a staff position of Compliance Officer to oversee development and administration of compliance systems, including monitoring, and provide technical assistance to contract managers as needed.

Internal file review consists of completion of Risk Assessment and Desk Monitoring checklists, as well as reviews of invoices and progress reports submitted, external audits, and other materials submitted by the contracting agency to determine that the project is on schedule, fiscally accountable, complying with contractual requirements and regulations. On-site reviews can include any or all of the following: program file and systems review at the contractor facility (e.g. income verification forms and process for collecting information); visiting sites where the activity is being carried out (e.g. a house under construction or the operation of a public service activity) or has been completed (in the case of property improvements); interviewing participants and clients as well as agency staff; fiscal file and systems review.

Additionally, all HOME projects are monitored by the City's subrecipients for compliance with all HOME requirements, e.g. long-term compliance with housing codes and affordability requirements. Monitoring is performed on a regular schedule at the intervals required by HOME regulations.

### **HOME**

All HOME projects are monitored by the City's sub-recipients for compliance with all HOME requirements, e.g., long-term compliance with housing codes and affordability requirements. Monitoring is performed on a regular schedule at the intervals required by HOME regulations.

### **Minority Business Outreach**

Property owners/borrowers carry out the bulk of contracting opportunities rather than the City. Borrowers of amounts under \$100,000 receive information about opportunities and encouraged to solicit quotes from minority and women business enterprises. Additionally, the BHCD contracts with the Housing Development Center to provide MBE and WBE (minority and women business enterprise) contractors with technical assistance to improve their capacities and capabilities to take on more complicated projects.

When Portland Development Commission (PDC) loans exceed \$100,000, borrowers are required to comply with PDC's Emerging Small Business (ESB)/Good Faith Effort Program for all prime construction contracts of \$200,000 or greater and subcontracts of \$100,000 or more. By the program requirements, borrowers through their prime contractors are required to either meet a 10 percent ESB goal or to make good faith efforts to contract with ESB firms for each division of work to be performed by a subcontractor. The ESB/Good Faith Effort Program further requires that they submit monthly reports on subcontractor utilization. Contractors are strongly encouraged to use formal advertising and bid procedures; publish requests for bids in at least two media; and seek solicitation assistance through minority and women community organizations.

For the same PDC construction loans exceeding \$100,000, borrowers are also required to comply with the Workforce Training and Hiring Program for prime construction contracts of \$1,000,000 or greater and subcontracts of \$100,000 or more. The Program seeks to ensure a contractor's workforce reflects the diversity of the regional construction workforce. The Program also maximizes apprenticeship and employment opportunities for minorities, women, and economically disadvantaged workers in the construction trades.

**MULTNOMAH COUNTY**

Multnomah County monitors the expenditure of CDBG and HOME funds to ensure that sub-recipients comply with regulations governing their administrative, financial and programmatic operation and achieve their performance objectives within schedule and budget. The County strives to provide up-front assistance and information about requirements through the application process, contract preparation, ongoing communication, and technical assistance.

Public service contracts require that sub-recipients submit monthly activity reports and semi-annual reports on progress toward achieving outcomes each month that invoices are received. The County performs on-site monitoring of active projects annually.

**CITY OF GRESHAM**

Monitoring is an ongoing part of project management for the City of Gresham. The elements of Gresham's project management system include the following:

- In an effort to assist applicants with addressing all the applicable federal regulations, the City provides a significant amount of information about relevant regulations in the funding application materials. While this information would not be sufficient for an applicant unfamiliar with the regulations, it does serve as a reminder to those who have some familiarity with the CDBG and HOME programs of the program and other requirements that they will have to meet if funded.
- As needed, the City meets with potential applicants to provide informal training on federal regulations and to answer any other questions that applicants may have concerning the application process. This is an opportunity to help applicants to shape their projects in a manner so that they conform to HUD guidelines.
- City staff reviews written applications to ensure general compliance with regulations at this early stage.
- If an application is approved, Gresham staff informally assesses the background of the applicant and the complexity of the project and determines how best to proceed with formalizing a contractual agreement. If the applicant is receiving funds for a service or project that they have completed successfully in a previous year, staff may simply send out a renewal contract with instructions on how to process it. If it is a new project of some complexity with a new partner, then staff may prepare checklists and have multiple meetings to ensure that the project is developed appropriately. Gresham staff provides considerable "up front" guidance on Davis Bacon, Uniform Relocation Act, Lead Paint and other related compliance issues.
- All contracts include provisions for providing written reports to the City on a regular basis. The City reviews these reports as they arrive. If they are not arriving on the prescribed basis, the City will contact the partner and request that the reports be provided. Significant delays in reporting may result the City delaying payment of invoices until the required reports are provided.
- At least once during the year, the City sponsors an informal meeting for all public service and housing service providers to better coordinate services among agencies and to provide an informal forum for discussing any mutual interests or concerns. Typically,



part of the meeting is spent discussion contractual requirements, such as potential revisions to the reporting forms.

- For all housing projects for which the City provides funding for construction, the City assigns a building inspector to monitor the progress of the project in the field and to review all invoices for payment. Community Revitalization staff continue to monitor progress as well. This provides an additional level of project oversight by an individual with construction knowledge.
- The City of Gresham undertakes on-site monitoring of a sample of projects completed in a particular year. There are four parts to the review:
  - Program compliance
  - Project achievements
  - Financial and grant management systems (by the City's financial staff---this staff chooses the sample that they want to monitor)
  - Regulatory compliance

A letter summarizing the results of the review and additional follow up action, if any, is sent to the project manager.

The following guidelines shall determine which projects shall be reviewed each year:

- All projects shall be reviewed during the year. At least half of the projects shall receive an on-site monitoring visit. A checklist for desk monitoring shall be developed in 2004-05.
- Public facilities and housing: Each public facility or housing project must be selected for an on-site monitoring visit during the year it is completed.
- Ongoing public services: Successful ongoing public service projects that submit current reports should have at least one on-site monitoring visit every two years if they receive more than \$25,000 in CDBG funding, or at least one on-site monitoring visit every three years if they receive \$25,000 or less in funding.
- Innovative (one time only funding) public services: Each innovative public service project should have an on-site monitoring visit, as it receives one-time-only funding.
- Ongoing housing programs: Successful ongoing housing rehab programs with budgets in excess of \$20,000 that submit current reports should have at least one on-site monitoring visit every two years.
- Homeownership: As the City of Gresham carefully reviews every file that comes in for a loan under this program, additional monitoring is not required, as it is provided on a loan-by-loan basis.
- The City of Gresham has also initiated a process of monitoring HOME-funded projects on an ongoing basis. The City attempts to coordinate its review with other funding agencies so as to avoid duplication of effort and to reduce the burden on the project sponsor.

#### Timeliness: CDBG

- Gresham shall check the status/amount of its draw downs in January of each year to ensure that the city is likely comply with the April 30 timeliness requirement. Letters will be sent to project sponsors requesting the timely submission of invoices or other measures if the situation warrants.

Timeliness: HOME

- Each year, Gresham shall review the status of all outstanding housing development projects to ensure that they are completed within the five-year window allowed for completion of projects once funding is committed.

***CERTIFICATIONS AND STANDARD FORM 424***

Copies of HUD-required certifications and Standard Form 424 are on file in each of the jurisdiction's department/bureau that administers HOME, CDBG, and other programs covered in the *Plan*.

**APPENDIX A: PROPOSED ACTIVITIES,  
FY 2003-2004**

**CITY OF PORTLAND**

**CITY OF GRESHAM**

**MULTNOMAH COUNTY, OREGON**

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# CITY OF PORTLAND, OR

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
<b>Housing</b>							
Homebuyer Program	Portland Development Commission and Portland Housing Center	CDBG funds as direct financial assistance to low-income homebuyers.	To provide direct financial assistance to low-income homebuyers.	Housing Units	15	\$ 246,000	CDBG
						\$ 570,773	HOME
Homebuyer Fair	Black United Fund and Portland Housing Center	Funding to support Home Buyer Fairs to achieve fair housing objectives, helping people overcome the barriers to home ownership.	Fair Housing Activities - helping people overcome the barriers to home ownership			\$ 24,000	CDBG
Portland Community Land Trust	Portland Community Land Trust	Program delivery costs associated with property acquisition.	To provide staff and operating for acquisition of housing units.	Housing Units	10	\$ 107,242	CDBG
<b>Housing: Homeowner Rehabilitation</b>							
Homeowner Rehab RFP	To be determined	CDBG funds as financial assistance to low income homeowners for necessary home repairs	To provide financial assistance to low income homeowners for necessary home repairs	Housing Units	TBD	\$ 763,335	CDBG
PDC Homeowner Rehab Loans	Portland Development Commission	Provide financial assistance to low income homeowners for necessary home repairs	Provide financial assistance to low income homeowners for necessary home repairs	Housing Units	100	\$ 457,000	CDBG
PDC Homeowner Rehab Program Delivery	Portland Development Commission	PDC staff and operating costs of delivering the homeowner rehabilitation program	To provide staff and operating for the delivery of the PDC Homeowner Rehab Program	N/A	N/A	\$ 305,835	CDBG
Sewer Hookup – Loans	BES	Deferred-interest loans to pay for sewer connections for low-income residents hooking up to sewer in areas receiving new sewers.	To provide financial assistance to 25 low-income households to connect to new sections fo the sewer system.	Housing Units	25	\$ 120,000	CDBG
<b>HOUSING: Rental Housing</b>							
PDC Affordable Rental Housing	Portland Development Commission	Provide financing to construct, rehabilitate and preserve a range of affordable rental housing.	To produce affordable rental housing that meets housing policy income targets.	Housing Units	150	\$ 2,220,387	CDBG
				Housing Units	225	\$ 3,396,867	HOME

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
PDC Program Delivery	Portland Development Commission	PDC staff and operating costs associated with delivering the Rental Housing program.	Underwrite loans to develop affordable rental housing	N/A	N/A	\$ 758,370	CDBG
Enterprise Loan Fund Program Delivery	The Enterprise Foundation, Inc	Program delivery costs associated with rehab or acquisition.	To provide low-interest loans for land acquisition and project financing for CDBG and HOME eligible projects.	Housing Units	150	\$ 70,000	CDBG
Gresham-HOME	City of Gresham	HOME Consortium allocation to be used for housing development, including homeownership in the City of Gresham. All funding to be administered by the City of Gresham.	Allocate all funds to community based housing development.	Housing Units	15	\$ 526,699	HOME
Multnomah Co HOME	Multnomah County	HOME Consortium allocation to be used for housing development, including homeownership in Multnomah County. All funding to be administered by Multnomah County. Focus is on Special Needs Rental Housing	Allocate all funds to community based housing development.	Housing Units	3	\$ 147,940	HOME
<b><u>HOUSING: Special Needs Housing</u></b>							
Special Needs Housing Siting Assistance	ONI	Provides City staffing to administer a siting assistance program that promotes the siting of special needs housing by providing the community education and dispute resolution services that affirmatively furthers fair housing for people with disabilities and other special needs.	Provide the siting assistance program within the City of Portland to affirmatively further fair housing.	N/A	N/A	\$ 25,984	CDBG
<b><u>Housing: Housing for People With AIDS (HOPWA)</u></b>							
HOPWA Housing Development: Contractor(s): HOPWA Housing Development RFP		Development of permanent housing resources for people with HIV/AIDS in the Portland EMA.	Develop new permanent housing in response to the HIV/AIDS needs assessment.	Housing Units	5	\$ 364,181	HOPWA
CAP-Transitional Housing	Cascade Aids Project	Provide a Transitional Housing Program of 12-15 units in the Portland EMA to serve People with HIV/AIDS who are homeless or at-risk of homelessness. Transitional units include supportive serves and are provided for 6-12 months.	Provide transitional housing and supportive serves to families living with HIV/AIDS in the Portland EMA.	Housing Units	13	\$ 199,947	HOPWA
CAP-Warehouse	Cascade Aids Project	Provide furniture and household items to 65 clients in the Portland EMA who are transitioning from homelessness. The project solicits donations of household goods and moving services to assist in the setting up of furnished transitional and permanent housing units.	Provide needed items to families living with HIV/AIDS in the Portland EMA.	Households	65	\$ 57,072	HOPWA

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Clark County Transitional Housing - HIV	Clark Co. DCS	Provides 4-6 units of transitional housing in Clark County, Washington and Case Management services provided by Clark County Department of Community Services.	Provide transitional housing and supportive services to families living with HIV/AIDS in Clark County.	Housing Units	6	\$ 89,974	HOPWA
CAP-Resident Services Position	Cascade Aids Project	Provides supportive services and administration to project-based rental assistance for people living with HIV/AIDS in the Portland EMA who live in HOPWA-funded permanent housing. Resident services include linkages to mental health, drug and alcohol, legal and other social services that may be provided on or off site. Rental assistance is provided to ensure that tenants of HOPWA-funded housing pay no more than 30% of their income for housing and utilities.	Assists families living in HOPWA funded program housing to access supportive services.	Households	54	\$ 131,410	HOPWA
CAP-Resident Services - Rental Assistance Fund	Cascade Aids Project	Provide funding for project based rental assistance payments for tenants living in HOPWA program housing, including a \$5,000 operating contingency.	Assist 33 housing units by providing a tenant-based subsidy that accounts for the difference between unit operating expenses and tenant payments.	Housing Units	33	\$ 82,997	HOPWA
Youth Transitional Housing	Outside-In	Provide two transitional housing units for youth living with HIV and AIDS. Provide case management and other services to facilitate transition to permanent housing.	Maintain 2 fully utilized transitional housing units for HIV affected youth within the Outside In Facility.	People	4	\$ 37,863	HOPWA
Resource Identification		Conduct activities in support of identifying needs and resources for housing PLWH/A. Includes support for HIV Housing Assistance Resource and conference travel for HOPWA staff.	Identify needs and resources	N/A	N/A	\$ 3,742	HOPWA
<b><u>HOUSING: Capacity Building/TA</u></b>							
Housing Development Center	Housing Development Center	Financial packaging and construction management services for non-profits involved in affordable housing development projects.	Provide necessary technical assistance to support CDBG/HOME eligible housing developments.	Housing Units	130	\$ 129,603	CDBG
Preservation Monitoring (CAT)	Oregon Housing NOW, Community Alliance of Tenants	Provide information and tracking of Preservation projects and expiring Section 8 contracts.	Monitor expiring section 8 contracts and changes to federal preservation legislation.	N/A	N/A	\$ 17,007	CDBG
		Project delivery costs CDBG and HOME eligible housing projects through the Portland Neighborhood Development Support Collaborative (PNDC)				\$ 511,478	CDBG

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
CDC Program Support	Central City Concern, Hacienda CDC, Human Solutions, NW Housing Alternatives, Peninsula CDC, REACH CDC, Rose CDC	Development Support Collaborative (PNDSC, a partnership of BHCD, the Enterprise Foundation, and the Neighborhood Partnership Fund). PNDSC convenes an advisory board of community representatives to select organizational workplans that include appropriate housing development activities and makes funding recommendations. BHCD will determine how much CDBG and HOME and private funds is needed by each organization for specific eligible projects and set up a tracking system. The Action Plan will be amended to set up each individual housing activity.	To provide project-specific capacity support to organizations developing CDBG eligible projects; To provide HOME CHDO funds to qualified CHDO organizations developing affordable housing projects.	Housing Units	145	\$ 299,275	HOME
Gresham Operating Support	Human Solutions	HOME funds to CHDOs as operating support.	To provide HOME CHDO funds to qualified CHDO organizations developing affordable housing projects.	N/A	N/A	\$ 33,081	HOME
Multnomah County Operating Support	Human Solutions	HOME funds to CHDOs as operating support.	To provide HOME CHDO funds to qualified CHDO organizations developing affordable housing projects.	N/A	N/A	\$ 9,264	HOME
<b><u>HOUSING: Housing Services</u></b>							
Housing Services - Small Rehab	To Be Determined	CDBG funds as financial assistance to low income homeowners for necessary home repairs	To provide financial assistance to low income homeowners for necessary home repairs			\$ 311,811	CDBG
MINI Rehab (Housing Services )	PPB, SHRMP, CEP, REACH, Christmas in April, Unlimited Choices, Northeast Workforce Center	Minor rehab of single family units	Minor rehab of single family units	Households	2000	\$ 311,813	CDBG
Homebuyer Counseling - PHC	Portland Housing Center	Homebuyer classes and individual counseling to assist low and moderate-income households to eventually become homebuyers.	To provide high quality homebuyer education seminars and one-on-one counseling to prospective low income homebuyers.	Households	700	\$ 107,242	CDBG
Housing Connections	BHCD	Support the continued development and administration of the Housing Connections On-Line database system, which will assist low-income Portland residents and residents of the Portland region with accessing the full range of affordable housing and housing services available in the community. This activity will affirmatively further Fair Housing.	Affirmatively further fair housing by expanding the number of affordable housing opportunities listed within Portland in the HC database. Develop the Single Application for affordable housing and the housing services database.			\$ 90,263	CDBG
						\$ 60,800	HOME
Shared Housing Program	EMO	Provides home share matching services to elderly homeowners needing assistance to stay in their home and low income tenants needing very low cost housing	Assist program participants with locating shared housing.	Households	350	\$ 40,390	CBG



Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Fair Housing Services	LASO	This project provides advice and representation for people experiencing housing discrimination within the City of Portland.	Assist households who are victims of housing discrimination.			\$ 43,868	CDBG
Fair Housing Services	Fair Housing Commission of Oregon	This project will provide fair housing services for people experiencing housing discrimination within the City of Portland. Provides outreach, education and the staffing of an I & R Helpline.	Outreach, coordination and education to affirmatively further Fair Housing and prevent violations of the FHA.	Households	43	\$ 17,575	CDBG
						\$ 12,059	GEN
Community Alliance of Tenants - Hot Line	Community Alliance of Tenants	Hotline and Outreach Program for low-income renters to provide education, information and referral to assist with housing stabilization.	Assist low-income renters with overcoming displacement and destabilization.	People	3,000	\$ 39,808	CDBG
Relocation Assistance	Housing Authority of Portland	Provide relocation assistance to households displaced as a result of enforcement action taken by the City of Portland, Office of Permit Development Review and Fire Bureau or as a result of elevated blood levels in household members under the age of 6.	Provide moving assistance, housing search assistance, case management and moving costs to displaced households.	Households	4	\$ 13,736	CDBG
Housing Connections Access Services	Housing Authority of Portland	Implementation of Housing Connections services. The goal of Housing Connections is to better inform the public, including members of protected classes, about the range of housing opportunities available to them, as well as their rights if they believe they have encountered illegal discrimination. Because these activities fall under the administrative cap, no beneficiary data will be reported in IDIS (although HAP will document and report to the City the number and nature of the beneficiaries of the Housing Connections Implementation Project). HAP will provide self-help stations (kiosks) for the public to access Housing Connections, which will be staffed by HAP, capturing demographic and income information about users.	Implementation of Housing Connections services.	Admin-Fair Housing	N/A	\$ 49,962	CDBG
<b>HOUSING: Loan Servicing/Administration</b>							
PDC Loan Servicing	Portland Development Commission	Program delivery costs of PDC servicing affordable housing loans.	Continue to service loans; fully develop portfolio management systems.	N/A	N/A	\$ 504,093	CDBG
PDC Housing Administration	Portland Development Commission	PDC staff and operating costs associated with general management, oversight and coordination related to CDBG funded housing programs.	Provide administrative functions relating to CDBG and HOME funds.	N/A	N/A	\$ 190,761	CDBG
National Development Council	National Development Council	Consultant services to secure CDBG-related financing (e.g. Section 108, EDI, float) for housing and economic development projects.	Provide technical assistance and financial packaging regarding alternative financing for housing, public facility and economic development activities.	N/A	N/A	\$ 60,000	CDBG
<b>Economic Development: Community Economic Development</b>							

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Community Economic Development	To Be Determined	The Economic Opportunity Initiative seeks to fund projects that have the capability to increase the incomes or assets of discrete groups of low-income residents. A Request for Proposals technique is being used to select the proposals that have the greatest opportunity for being successful. Organizations will identify their target population, anticipated outcomes, and the strategy they will utilize to attain those outcomes. A citizens advisory committee will review the applications and make recommendations to the City Council. It is anticipated that 1/3rd of the funded applications will qualify as being sponsored by a community based development organization undertaking community economic development activities; 1/3rd will qualify as a microenterprise activity; and 1/3rd will qualify under special economic development activities as technical assistance to for-profit businesses. BHCD plans to amend the Action Plan as final selections are made.				\$ 991,592	CDBG
N/NE Commercial District Initiative			Coordination of community events to assist 200 businesses.	People	19663	\$ 25,000	CDBG
Brownfield Showcase Program		It is anticipated that 1/3rd of the funded applications will qualify as being sponsored by a community based development organization undertaking community economic development activities; 1/3rd	Carry out assessment of environmental assessment of contaminated properties in low-income areas of N/NE.	N/A		\$ 40,000	CDBG
<u>Economic Development:</u> <u>Workforce Development</u>							
WSI Activities	WSI, SE Works, CCC, possibly to N/NE CBDO	A) Support for one community based development organization (SE Works) that provides job training, support services, job search assistance, job placements, retention and advancement services to low-income adults that face multiple barriers to work. B) Region-wide planning for target industry training programs. C) Small public housing based program of intensive workforce support and assistance to very challenged residents, Columbia Villar/Tamarak.	Training, employment assistance and support services for 2,400, 1200 of whom will find or improve their employment. Develop pilot training program in Creative Services in NE. Intensive training case management and retention for 120 adults with major barriers. Job placement or upgrade for 70.	People	2400 120	\$ 587,000	CDBG
<u>Economic Development:</u> <u>PDC Administration</u>							
Loan Servicing & Asset Management: Contractor(s) PDC	Portland Development Commission	PDC staff and operating costs associated with servicing the portfolio of CDBG funded loans.	Quality loan servicing of economic development loan portfolio.	N/A	N/A	\$ 12,395	CDBG
<u>Neighborhood</u> <u>Improvements: Street</u> <u>Improvement Program</u>							

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Street Improvement Program	Bureau of Transportation Engineering	Design and construction of street and sidewalk improvements, including drainage, curbs, and street trees and engineering and project management in low-income neighborhoods for the development of affordable housing and to meet neighborhood safety and livability. Projects for 04/05 include SE Foster & 128th and new HOPE VI.	Design and construction of street and sidewalk improvements	People	1995	\$ 1,720,000	CDBG
<u>Neighborhood Improvements: Public Facilities</u>							
Non Profit Facilities	Portland Development Commission	Program to assist non profit agencies provide cost effective services to low income residents or neighborhoods by providing financial assistance for facility development including pre-development, acquisition, new construction, rehabilitation, and program delivery.	3 facilities constructed/rehabilitated.	Public facilities	2	\$ 388,294	CDBG
<u>Homeless Facilities and Services: Sub-Service Area: Homeless Families Projects</u>							
TPI - Glisan Street	Transition Projects, Inc.	To operate a shelter with 90 beds.	Provide shelter and services for homeless men.	People	700	\$ 318,873 \$ 60,438 \$ 185,414	CDBG ESG Gen. Gund
TPI - Clark Street	Transition Projects, Inc.	To operate a shelter with 90 beds.	Provide shelter and services for homeless men.	People	700	\$ 359,440 \$ 62,082 \$ - \$ 96,138	CDBG ESG McKinney Gen. Fund
TPI - Jean's Place	Transition Projects, Inc.	To operate a facility for homeless single women.	Provide shelter and transitional housing with service for homeless women.	People	390	\$ 103,200 \$ 24,894 \$ 237,255 \$ 182,556	CDBG ESG McKinney Gen. Fund/HIF
Community Service Center	Transition Projects, Inc.	To operate an intake center.	Provide access to service for 2,500 people.	People	2,500	\$ 46,922 \$ 66,625 \$ 18,331 \$ 66,232	CDBG McKinney HIF Gen. Fund
Multnomah County Dev. Disabled	Multnomah County	To provide life skills training to people with developmental disabilities.	Provide assessments and access to living assistance for people with disabilities.	People	25	\$ 40,903	McKinney
CCC - A/D Free Transitional Housing	Central City Concern	Central City Concern will provide for up to 102 rooms of transitional alcohol and drug free housing for homeless men and women involved in alcohol and drug treatment.	Provide transitional alcohol and drug free housing	People	429	\$ 286,928	ESG
GC-CCC Homeless Employment	Central City Concern	Central City Concern will locate an employment specialist at Glisan Street Facility.	Provide employment assessment to shelter residents.	People	475	\$ 29,391	Gen. Fund

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Cascadia McKinney Special Needs		Cascadia will provide housing placement services for 100 homeless mentally ill individuals in shelter to mental health services.	Provide housing placement with high retention after 6 months and 1 year. Provide assessments and connection to appropriate services in shelter.	People	800	\$ 91,939	McKinney
Cacadia – Bridgeview	Cascadia Bheavioral Healthcare	Cascadia operates the transitional housing and services for homeless, chronically mentally ill people at the Bridgeview (NW Everett and Broadway). Cascadia provides shelter for 58 individuals (48 short-term emergency SRO beds with 24 hour supervision, and 10 long-term beds with the capacity to provide on-site intervention).	Housing and service for the homeless chronically ill.	People	100	\$ 256,398	CDBG
						\$ 65,655	HIF
NW Pilot Project – Homeless Seniors/ESG	NW Pilot Project	NW Pilot Project will provide homeless services and homeless prevention to seniors.	Contractor will provide services to 1360 households, including 180 permanent housing placements and 180 eviction	People	1360	\$ 117,121 \$ 152,507 \$ 72,912	CDBG HIF McKinney
St. Francis Public Toilets	Honey Bucket	Funds two public toilets at St. Francis dining hall.	To provide two public toilets for clients at St. Francis dining hall.	People		\$ 2,645	Gen. Fund
Cascadia-Project Respond/East Side	Cascadia Behavioral Healthcare	Provide outreach intervention services to homeless individuals with mental illness.	Outreach and crisis intervention services to homeless mentally ill.	People	800	\$ 131,668	Gen. Fund
Cascadia Behavioral Healthcare	Cascadia Behavioral Healthcare	Provide housing placement services to homeless individuals with mental illness in East County.	Provide housing placement services to homeless individuals with mental illness in East County.	People	50	\$ 20,000	McKinney
Salvation Army – Winter Shelter Singles	Salvation Army	Provide winter shelter to homeless men and women from November through March.	Provide 100 beds for men and 50 beds for women during winter.	People	1400	\$ 219,219	Gen. Fund/HIF
CCC-Winter Shelter	Central City Concern	Provide emergency shelter in winter emergency .	Provide sheleter in emergency situation for up to 50 adults.	People		\$ 6,000	Gen. Fund
JOIN - Camper Outreach	JOIN	Provide outreach to homeless campers.	Outreach and basic services for homeless campers	People	1,600	\$ 157,669	Gen. Fund/HIF
GF-Homeless Data Project	Willow Mountain Consulting	Provide technical assistance and maintenance of the homeless singles database project for program evaluation.	Provide technical assistance and maintenance of the homeless singles database project for program evaluation.	Organizations	8	\$ 5,097	Gen. Fund
<b>Homeless Facilities and Services: Homeless</b>							
Multnomah County Homeless Youth Services and Shelter	Multnomah County	Multnomah County will contract with homeless youth service providers to provide transitional housing to homeless youth.	Provide transitional housing to homeless youth.	People	50	\$ 638,421	Gen. Fund
Mult. Co. – Youth Night Shelter	Multnomah County	Multnomah County will contract with homeless youth service provider to provide night shelter to homeless youth.	Provide night shelter to homeless youth.	People	120	\$ 203,841	CDBG
<b>Homeless Facilities and Services: Facilities Development</b>							
CCC/Emergency Repair	Central City Concern	Emergency repair and maintenance services for 6 public facilities providing public services to very low income, homeless, and special needs populations.	Maintain 6 public facilities serving very low income people.	People	500	\$ 210,316	CDBG
<b>Homeless Facilities and Services: Homeless Prevention</b>							

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
RASP-Rent Assistance Supplement Program	Housing Authority of Portland	Provide HOME Tenant Base Rental Assistance to homeless, at risk of homelessness, or disabled low income families and individuals; does not include program administration costs.	Provide rent to families in need in coordination with agencies that provide case management	Households	130	\$ 250,101	HOME
						\$ 334,820	PILOT
RASP-Admin	Housing Authority of Portland	Program administration to deliver the RASP program.	Provide RASP program throughout Multnomah County.	Planning/Admin		\$ 54,805	HOME
<b>Youth Employment and Involvement: Employment Training and Support</b>							
WSI Youth Employment Partnership	WSI	Year round assistance to place youth in unsubsidized jobs.	432 young people will obtain part or full time employment.	People	432	\$ 163,640	Gen. Fund
Outside In -Homeless Youth Employment	Outside-In	Employment and training placement and support for downtown homeless youth.	100 downtown homeless youth will be placed in and retain unsubsidized employment.	People	100 Served	\$ 104,689	CDBG
					48 Placed	\$ 10,734	Gen. Fund
WSI - Comprehensive Program	WDB, WSI	Assortment of employment and training programs for at-risk youth that occur during year-round and summer programs linked to school year services.	125 at-risk youth will participate in programming that addresses academic and work-related skill building issues.	People	60	\$ 187,818	Gen. Fund
Mult. Co. YEEP	Multnomah County	Provide gang impacted youth with career based employment training and placement assistance.	Assist 102 youth in obtaining and retaining employment.	People	102 Served 60 Placed	\$ 184,576	Gen. Fund
Portland School District - H RTP	Portland Development Commission and Portland School District	Home rehabilitate program for low-income homeowners. Partnership between BHCD, PDC and the Portland School District. Students perform the rehab work as part of school curriculum. Work includes roofing and sheetrock and carpentry.	23 homes rehabilitated	Housing Units	23	\$ 432,923	CDBG
<b>Youth Employment and Involvement: Community Services</b>							
Portland Youthbuilders	Portland Youthbuild	A two-year comprehensive youth community service program integrating education, employment training, and leadership development with the development of affordable housing.	Involve 40 young people in the PYB program with education advancement and employment placement goals.	People	40	\$ 400,000	Youth-Build
Open Meadow Learning Center	Open Meadow Learning Center	Serve low income potential high school dropouts and high school dropouts ages 16 - 21 in CRUE: Corps Restoring the Urban Environment, a full year youth community service program combining academic and work skills training with environmental restoration projects in Portland.	Involve 16 at-risk youth in this education and training program.	People	16	\$ 104,259	Gen. Fund
<b>Public Safety Program: Outreach/Education</b>							
Mult. Co.-Youth Outreach Gangs	Multnomah County	Provide outreach, education and information and referral, including short-term case management, for gang affected youth and their families in low-income neighborhoods.	90 youth provided case management.	People	90	\$ 89,418	CDBG
<b>Public Safety Program: Treatment Programs</b>							

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
CCC-CHIRS	Central City Concern	Outreach basic medical assessment/treatment and transportation services for individuals who are under the influence of intoxicants.	2000 unduplicated individuals served.	People	2000	\$ 338,320	Gen. Fund
Outside In-Needle Exchange	Outside-In	Needle exchange program for those who need sterile injection equipment, bleach and water, alcohol prep pads, and condoms, in order to decrease the number of new HIV infections.	Anticipate serving 225 unduplicated individuals.	People	225	\$ 23,835	Gen. Fund
<b><u>Community and Targeted Initiatives: Community Initiative Programs</u></b>							
Community Initiatives - Small Grants	Appx. 20, selected 2x/yr. Competitive process	Funds one-time grants to community based organizations and neighborhood associations to undertake projects that benefit low/moderate income people or neighborhoods. Matching resources required and projects selected through an open competitive process.	87% success rate for completed projects, 190% matching resources leveraged by completed projects, 47% projects selected first time organizations.	People	200	\$ 200,000	CDBG
<b><u>Community and Targeted Initiatives: Targeted Area Designation</u></b>							
TAD Technical Assistance	Not yet determined	Provide funds to purchase specialized technical assistance for one or more BHCD designated target areas to assist in implementation of the target area plan. Funds will be used to purchase training and professional services to address such issues as development of action plans, project feasibility studies, and organizational development improvements to ensure the ability of target area sponsors to manage federal funds.	Bureau is working with target areas to determine the specific training and technical activities to be provided.	Organizations	N/A	\$ 10,000	CDBG
Latino Network	NPNO	Funds grant support organizing and planning in the Latino community, toward identification of activities and projects to be carried out in a community-directed manner, to address issues of low/moderate income families and individuals. Funds primarily used to hire staff to oversee community outreach and development of operation of project activities.	Outreach into the Latino community and development of an action plan to direct future work.	Organizations	1	\$ 51,000	CDBG
East Portland Project		Funds grant support to organizing and leadership development among low/moderate income people in some area or community of East Portland, possibly in cooperation with the City of Gresham. Funds may be used to hire staff to oversee outreach and planning and/or purchase technical assistance.	Outreach and leadership development activities to some part of the E Portland community.			\$ 51,000	CDBG
<b><u>Community and Targeted Initiatives: Citizen Participation Projects</u></b>							

Project	Contractor	Description	Primary One Year Objective	Beneficiaries	Units	FY 2004-05 Amount	Source
Community Development Network	Community Development Network	Provides information and other resources to citizen based organizations participating in the planning, implementation and assessment of activities being assisted with CDBG funds.	Provide ongoing information to and solicit input from members regarding affordable housing and community development.			\$ 21,933	CDBG
NECN-Livability	Northeast Coalition of Neighborhoods	Provide technical assistance to low/moderate income neighborhoods within the program service area, to address community development issues as they arise. Assistance ranges from helping to prepare Community Initiatives grant applications, to providing staff assistance to carry out a neighborhood activity (e.g. clean-up, meeting facilitation), to teaching neighborhoods how to reach out and include low income people in their projects.	3-4 neighborhoods will receive assistance.	Organizations	4	\$ 30,125	CDBG
SEUL-Citizen Participation	SE Uplift	Provide technical assistance to low/moderate income neighborhoods within the program service area, to address community development issues as they arise. Assistance ranges from helping to prepare Community Initiatives grant applications, to providing staff assistance to carry out a neighborhood activity (e.g. clean up, meeting facilitation), to teaching neighborhoods how to reach out to and include low income people in their projects. There is one contiguous service area.	Provide technical assistance to low/moderate income neighborhoods within the program service area, to address community development issues as they arise.	People	2000	\$ 45,269	CDBG
<b>HCDC/OTHER SUPPORT</b>							
Homeless Planning Initiative		Planning activities for the continuum of care for the homeless, consolidated plan, and general housing policy issues affecting low and moderate income households.	Provide planning and policy guidance.			\$ 56,673	CDBG
Affordable Housing Planning-HCDC	HCDC	Planning activities for affordable housing preservation and development, consolidated plan, and general housing policy issues affecting low and moderate income households.	Provide planning and policy guidance.			\$ 8,395	CDBG
Non-Profit Technical Assistance to CBOs		Provides funds to purchase specialized planning/technical assistance for non-profit organizations serving low-income people. Actual providers will be selected during the fiscal year.	Provide technical assistance to CBOs.			\$ 65,000	CDBG
<b>ADMINISTRATION</b>							
BHCD Administration	BHCD	Bureau of Housing and Community Development administration for the Community Development Block Grant and other related activities.	Effectively administer federal funds.			\$ 1,179,501	CDBG





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# CITY OF GRESHAM, OR

**CDBG GRANT PROGRAM**

**DRAFT**

**RECOMMENDED PROJECT DESCRIPTIONS FOR 2004 – 2005**

SOS, City of Gresham - Provision of 0% deferred payment loan to approximately five low/mod income Gresham property owners to pay for private plumbing costs necessary to connect their homes to the public sanitary sewer as mandated by the State of Oregon. Location: Citywide. Recommended Amount: \$5,250

Adapt-A-Home Rehab, Unlimited Choices, Inc. - Removal of barriers to create accessible housing for approximately 45 low-income Gresham households with physical disabilities without regard to age. Location: Citywide. Recommended amount: \$90,000.

Rental Assistance, Housing Authority of Portland - Provision of administrative costs for one-time housing assistance (such as deposits) or an on-going (up to 24 months) rent supplement to homeless & at-risk-of-homeless Gresham families & individuals. Serves approximately 45 households/117 individuals. Grant funds would pay for administration. Location: Citywide. Recommended amount: \$8,627

Gresham Homeownership Program, City of Gresham/Community Vision - Buyer-Initiated SAM – Provision of Shared Appreciation Mortgage to approximately 3 qualified first-time homebuyers with incomes below 80% MFI purchasing a home. Location: Citywide. Recommended amount: \$70,477

Mend-A-Home, Unlimited Choices, Inc. – Provision of emergency home repair to approximately 20 low income & very low -income owner occupied homes in Gresham. Assistance may be provided as a deferred payment loan. Location: Citywide. Recommended amount: \$80,000

Pat Pfeifer Park Improvements, City of Gresham – Provision of extending the major pathway (improving circulation), add additional trees and irrigation; resurface and stripe existing asphalt for recreational games, add a swing set to the playground and create a pedestrian entrance. Park located at NE 172<sup>nd</sup> at Flanders serving the Rockwood low/mod income neighborhood. Approximately 1,119 low-income households utilize the park. Location: Census Tract 96.04. Recommended Amount: \$245,000

Vance Park, City of Gresham. – Provision of a play structure, drinking fountain and site amenities to an underdeveloped park serving the low income neighborhood. Will serve children from lowest income census tracts in Gresham. Location: Census Tract 98.01. Recommended Amount: \$ 36,302

Couch Street, City of Gresham - Reconstruction of substandard Couch Street from 172<sup>nd</sup> east approximately 230 feet, including paving and addition of curb, gutter, trees and a sidewalk on south side. Serves low-mod area, including adjacent Coburn Woods, an apartment complex for very low income persons with psychiatric disabilities. Location: Census Tract 96.06. Recommended Amount: \$54,000

Multi-Services Center, Human Solutions, Inc. – Provision of funds to acquire office space for a Region 6 Multi-Service Center in the Rockwood Area of Gresham, where Human Solutions and partner agencies will provide case management, energy assistance, skill building, information and referral and other services. Persons served in the Multi-Service Center will include the elderly, small and large families, victims of domestic violence, youth, the homeless and immigrants. All will be very low income families and individuals. Location: Rockwood Area. Recommended Amount: \$157,000

Fair Housing Assistance, Legal Aid Services of Oregon - Provision of paralegal & attorney assistance to approximately 35 low income individuals from Gresham with housing discrimination complaints. Assistance includes in-depth interview, investigation, referral & individual representation. Location: Citywide. Recommended Amount: \$5,398

Transitional Housing, Human Solutions, Inc. - Project provides approximately 60 unit months of transitional housing for approximately 60 extremely low income Gresham homeless residents including 3 units at Willow Tree Inn & 2 private market units. Human Solutions will work with HAP to find replacement units during Willow Tree construction. CDBG funds pay for property management & administration. Location: Citywide. Recommended Amount: \$37,614

El Programa Hispano, Catholic Community Services – Provision of bilingual/bicultural case management services & new outreach & education services to assist approximately 980 low income Latinos who live in the City of Gresham. Location: Citywide. Recommended Amount: \$36,000

Early Childhood Program, Multnomah Education Service District – Provision of in-home services up to 20 low income Gresham families (75 individuals) with children aged birth through five who have developmental delays and disabilities so that the families can overcome self-sufficiency barriers and participate in early childhood services on a regular basis. Location: Citywide. Recommended Amount: \$15,000

Easy Access, Human Solutions, Inc. - Project will help approximately 3,041 low-income Gresham residents access social and housing services available in East Multnomah County and countywide by providing a staffed information and referral office in Gresham. Location: Citywide. Recommended Amount: \$25,000

Job Skills, El Programa Hispano - Provision of job skills training to approximately 200 low-income Gresham residents, including monolingual Spanish speaking people. Curriculum to include pre-employment workshops and more in-depth classes in approximately 4 specific skill areas. Location: Citywide. Recommended Amount: \$15,000

Views, Cascadia Behavioral Healthcare, Inc. - Provision of peer counseling and support group services to approximately 20 low-income elderly clients in Gresham in need of mental health or addiction services. Location: Citywide. Recommended Amount: \$20,000

Housing Connections, City of Portland – Provision of an online housing locator serving the Portland Metro-area where users can search for specialized housing by affordability, accessibility and specific geographic location. Funding for operations of the site would be utilized to continue operation of the renter access phone line and outreach specific to Gresham. The site went live in May of 2002 and operations are planned to continue throughout Fiscal Year 2004-2005. Location: Citywide. Recommended Amount: \$7,000

Renter Stability, Community Alliance of Tenants - Provision of information on landlord tenant law, rights & responsibilities & suggestions on how to maintain professional rental practices to tenants and social service agency staff in Gresham in coordination with the Fair Housing Council of Oregon. Location: City Wide. Recommended amount: \$5,000

Administration, City of Gresham/City of Portland – Funds would be used for staff costs and would also be used to prepare a Consolidated Plan Update and support the countywide Housing and Community Development Commission. Funded award: \$221,400

City of Gresham  
Community Revitalization Program

**HOME GRANT PROGRAM**

RECOMMENDED PROJECT DESCRIPTIONS FOR 2004 – 2005

CHDO Operating, Human Solutions, Inc. – Provision of operating support for Human Solutions, a Community Housing Development Organization (CHDO), to develop affordable housing, provide asset management oversight to existing low-income housing projects, preserve housing for low-income families, and prevent homelessness in the City of Gresham. Location: Citywide. Recommended Amount: \$25,000

West Gresham Apartments, Cascadia Behavioral Healthcare, Inc. - Development of a 27-unit apartment complex housing extremely low-income individuals with a severe and persistent mental illness to be located at 172<sup>nd</sup> and Burnside. 24 one-bedroom units, 2 two-bedroom units, and a resident manager. CDBG funds used for site acquisition and off site improvements. Recommended amount: \$100,000

Habitat 197<sup>th</sup>, Mt. Hood Habitat for Humanity - Acquisition of one acre site on SE 197<sup>th</sup> for construction of 24 condominiums for sale to households with incomes below 50% MFI. 11 homes are HOME-assisted. Sweat equity project. Location: 197<sup>th</sup> between Stark and Burnside. Recommended amount: \$300,000

CHDO Pre-Development Loan, Human Solutions, Inc. - Provision of a pre-development loan to complete due diligence and obtain an option to acquire an existing rental housing complex in Gresham, preferable in the Rockwood area. Activities will include architectural feasibility pest and dry rot inspection, lead-based paint survey, federally-required tenant survey, and environmental study. Any option to purchase will be conditioned on successful application(s) for acquisition and rehabilitation fund in 2005 from the City, State and private lenders. Location: not known. Recommended Amount: \$50,000

Gresham Homeownership Program, City of Gresham/Community Vision - Buyer-Initiated Model – Provision of eight Shared Appreciation Mortgages to qualified first-time homebuyers purchasing homes. Location: Citywide. Recommended Amount: \$70,732

Rental Assistance, Housing Authority of Portland - Provision of one-time housing assistance (such as deposits) or an on-going (up to 24 months) rent supplement to homeless & at-risk-of-homeless Gresham families & individuals. Serves 45 households/117 individuals. Location: Citywide. Recommended Amount: \$34,014

Administration, City of Gresham/City of Portland – Funds would be used for staff costs and contracts to administer the HOME program and to manage projects. Recommended Amount: \$65,966

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-8

**Est. Start Time:** 10:40 AM

**Date Submitted:** 04/05/04

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**Requested Date:** May 6, 2004

**Time Requested:** 1 min

**Department:** Business & Community Services **Division:** Land Use & Transportation Planning

**Contact/s:** Derrick Tokos, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 22682

**I/O Address:** 455/116

**Presenters:** Derrick Tokos

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**Agenda Title:** Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC § 37.0560 with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** The request is for the Board of Commissioners to adopt ordinances amending §37.0560 and §38.0560 of the Multnomah County code to clarify when the County is precluded from issuing permits for property that is not in full compliance, adding specific language to allow issuance of a permit when necessary to protect public safety. The code sections contain identical language; the difference being that Chapter 38 applies to the National Scenic Area and Chapter 37 to the rest of the unincorporated County. Because changes to the National Scenic Area code are subject to concurrence by the Gorge Commission and Secretary of Agriculture, we have drafted separate ordinances so as not delay the effective date for these changes elsewhere in the County. The recommendation from the Planning Commission, Planning Director and Department Director is for approval of these amendments.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.**

Since 1979 the Multnomah County Code has had language prohibiting issuance of permits on properties that fail to meet certain provisions of the County zoning and land division ordinances. The compliance language was revised in 1998 and again in 2001, with the latest version requiring properties be in "full compliance" with all land use codes before an application for a permit can be approved. Landowners have an incentive to correct violations when they are interested in developing property and these provisions have been effective in getting compliance problems corrected. However, our experience in implementing the "full compliance" requirement has shown that the language has limitations, in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence issuance of permits to achieve compliance. It is to these limitations that the amendments are targeted.

Revising the first sentence of the compliance section to include language stating "*The County shall not make a land use decision or issue a building permit approving development, including land divisions and property line adjustment ...*" clarifies the types of actions to which this code provision is targeted. Existing language is far reaching in its reference to all permits and is ambiguous as to what constitutes an approval, putting into question whether or not the County can make non-development related decisions which are defined under the code as permits (e.g. Planning Director Interpretations, Lot of Record Determinations, Address Changes, etc.). While the Planning Director and Hearings Officers have interpreted existing language to allow issuance of certain "non-development" permits reasoning that they do not constitute an "approval", this change removes ambiguity, making it clear that the County can take action on these types of applications. Further, MCC 37.0530 defines all "allowed uses" as Type 1 Permits, recognizing that they do not require a land use decision. County review is not required for development of some of these uses (e.g. farming activities, timber harvests, etc.); however, existing compliance language prohibits these activities on properties that are not in full compliance with the County Code. This change clarifies that allowed uses that do not require a land use decision or building permit are not subject to these sections.

The portions of §37.0560 and § 38.0560 that speak to when permits can be issued has been restructured into a list of circumstances where the County is free to take such action. The first item on the list includes existing language allowing issuance of a permit if it brings the property into full compliance with the County Code. Added to this is a sentence allowing "sequencing of permits or other approvals as part of a voluntary compliance agreement." The term "voluntary compliance agreement" comes from an ordinance that was recently presented to the Planning Commission, amending the County Violation and Enforcement regulations. Such agreements are effectively a written contract between the County and landowner outlining how compliance is to be achieved. By allowing sequencing of permits or other approvals as part of such agreements the County and landowners gain the flexibility to map out the steps necessary to satisfy County land use requirements in circumstances where, due to the severity of the violation or complexity of the permitting requirements, compliance cannot readily be achieved with a single permit or approval.

New language has also been added allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code. Imminent safety problems such as a failing slope adjacent to a road or home, or compromised utility infrastructure for water, sewer, fuel, or power, require immediate action to prevent harm not only to the subject property but other properties in the area. Since the

consequences of not being able to obtain approval for remedial action can impact a wide range of properties in addition to the parcel with the code compliance problem and considering the substantial amount of damage and potential for public harm that can result, it is prudent to add this language to ensure that the County permitting processes do not contribute to the problem. To be as clear as possible as to the range of activities that qualify under this provision, we have included a definition for the term *public safety*. The definition draws from language in Multnomah County Building Code §29.006 and §29.204 for Determination of Unsafe Buildings and includes examples of the types of conditions where the County can issue permits on non-compliant properties to facilitate abatement of the problem.

A clause has also been added allowing the County to issue permits for work related to and within a valid easement over, on or under an affected property. Such work might include the construction or repair of stormwater facilities, flood control structures, utilities, or roads. These projects are often linear in nature impacting more than one property. A party controlling an easement has a specific ownership right separate from those held by the owner of the underlying property. While they have some influence over what happens within the easement area, based upon its terms, they have little if any control over what happens on the rest of the property. The existing code compliance language does not draw a distinction between fee ownership of property and easement ownership meaning that an owner of a valid easement across a non-compliant property can not get permits for development until the compliance problem, unrelated to their easement interest, is resolved. This is inherently unfair and is resolved with these amendments.

3. **Explain the fiscal impact (current year and ongoing).** No financial impacts are anticipated.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain. Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. **Explain any legal and/or policy issues involved.** To the extent that “full compliance” language in the existing land use code may be at odds with building code standards requiring abatement of unsafe structures, these revisions eliminate the potential for conflict.

The Multnomah County Comprehensive Framework Plan identifies protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program, achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner (Part 1-5, Volume 2: Policies). The proposed amendments further these goals by giving the County the ability to issue permits on non-compliant properties for public facilities within valid easements (where the work is unrelated to the compliance problem) and allows landowners to obtain permits in response to legitimate public safety issues that might otherwise compromise their ability to live in a safe and healthy environment. This same set of Comprehensive Plan goals encourages citizen participation and problem solving, an objective that is advanced with the proposed revision to allow sequencing of permits to achieve code compliance.

5. **Explain any citizen and/or other government participation that has or will take place.** Notification of the Planning Commission hearing on the proposed ordinance amendment was published in the Oregonian newspaper. Copies of the revisions were also sent to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee, a step that is required for ordinance changes in the National Scenic Area. Gorge Commission staff has since contacted our office and indicated that they are not concerned by these changes. The proposed amendments were submitted to the State Department of Land Conservation and Development (DLCD) for their review. They have not provided comment.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 03/29/04

Budget Analyst

By: \_\_\_\_\_

Date:

Dept/Countywide HR

By: \_\_\_\_\_

Date:



BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC-04-001**

Recommend to the Board of Commissioners the adoption of an ordinance amending Chapters 37 and 38 of the Multnomah County Code to clarify when the County is precluded from issuing permits for property that is not in full compliance with the County code, adding specific language to allow issuance of a permit when necessary to protect public safety.

**The Planning Commission Finds:**

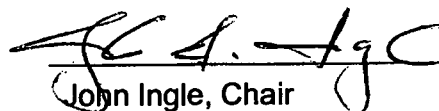
- a. The Planning Commission supports the objective that properties comply with County land use requirements, and recognizes this as the premise behind the current language in §37.0560 and §38.0560 of the Multnomah County Code requiring properties be in "full compliance" before an application for a permit is approved.
- b. While effective, this full compliance requirement has limitations in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence permits to achieve compliance.
- c. The proposed amendments, discussed in the February 20, 2004 staff report and described in Exhibit A to this resolution, resolves this by (1) clarifying that allowed uses, which do not require a land use decision or building permit, are not subject to the full compliance requirement; (2) allowing sequencing of permits or other approvals as part of a voluntary compliance agreement; (3) providing the County the ability to issue permits on non-compliant properties for public facilities within valid easements and; (4) allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code.
- d. The Multnomah County Comprehensive Framework Plan supports these changes, identifying protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program that is achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner.
- e. After notification of the proposed amendments was published in the Oregonian newspaper and copies mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee, the Planning Commission held a public hearing on March 1, 2004 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

The Multnomah County Planning Commission hereby recommends that the changes to sections §37.0560 and §38.0560 of the Multnomah County Code, as discussed in the staff report dated February 20, 2004 and described in Exhibit A to this resolution, be adopted by the Multnomah County Board of Commissioners.

Adopted this 1st day of March, 2004

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

## Exhibit A to Planning Commission Resolution No. PC-04-001

Amendments to Chapters 37 and 38 of the Multnomah County Code to clarify when the County is precluded from issuing permits for property that is not in full compliance with the County code, adding specific language to allow issuance of a permit when necessary to protect public safety.

### Section 37.0560 of the Code is amended to read as follows:

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

#### **§37.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, *Public Safety* means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

**Section 38.0560 of the Code is amended to read as follows:**

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

**§38.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

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- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, *Public Safety* means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

Amending MCC § 37.0560 With Respect To Issuing Permits And Allowing Issuance Of A Permit When Necessary To Protect Public Safety

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

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

- a. The Board of Commissioners supports the objective that properties comply with County land use requirements, and recognizes this as the premise behind the current language in §37.0560 of the Multnomah County Code requiring properties be in “full compliance” before an application for a permit is approved.
- b. While effective, this full compliance requirement has limitations in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence permits to achieve compliance.
- c. The amendments in this ordinance resolve this problem by (1) clarifying that allowed uses, which do not require a land use decision or building permit, are not subject to the full compliance requirement; (2) allowing sequencing of permits or other approvals as part of a voluntary compliance agreement; (3) providing the County the ability to issue permits on non-compliant properties for public facilities within valid easements and; (4) allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code.
- d. The Multnomah County Comprehensive Framework Plan supports these changes, identifying protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program that is achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner.
- e. The Planning Commission is authorized by Multnomah County Code subsection 37.0530(E) and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this Ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was published in the Oregonian newspaper and copies mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee. At that hearing the Planning Commission adopted a resolution recommending these amendments be made by the Board of Commissioners.

**Multnomah County Ordains as follows:**

**Section 1. § 37.0560 is amended to read as follows:**

**§37.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

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(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

FIRST READING:

\_\_\_\_\_  
April 29, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 6, 2004

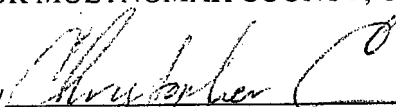
\_\_\_\_\_  
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
\_\_\_\_\_  
Christopher D. Crean, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1030**

Amending MCC § 37.0560 with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety

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

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

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FIRST READING:

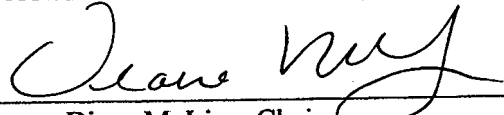
April 29, 2004

SECOND READING AND ADOPTION:

May 6, 2004



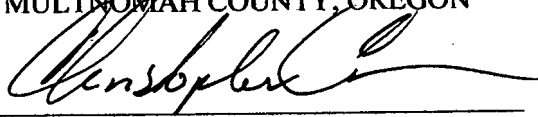
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
Christopher D. Crean, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-9

**Est. Start Time:** 10:41 AM

**Date Submitted:** 04/05/04

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**Requested Date:** May 6, 2004

**Time Requested:** 1 mins

**Department:** Business & Community Services **Division:** Land Use & Transportation Planning

**Contact/s:** Derrick Tokos, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 22682

**I/O Address:** 455/116

**Presenters:** Derrick Tokos

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**Agenda Title:** Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC § 38.0560 for the Columbia River Gorge National Scenic Area with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?** The request is for the Board of Commissioners to adopt ordinances amending §37.0560 and §38.0560 of the Multnomah County code to clarify when the County is precluded from issuing permits for property that is not in full compliance, adding specific language to allow issuance of a permit when necessary to protect public safety. The code sections contain identical language; the difference being that Chapter 38 applies to the National Scenic Area and Chapter 37 to the rest of the unincorporated County. Because changes to the National Scenic Area code are subject to concurrence by the Gorge Commission and Secretary of Agriculture, we have drafted separate ordinances so as not delay the effective date for these changes elsewhere in the County. The recommendation from the Planning Commission, Planning Director and Department Director is for approval of these amendments.
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Revising the first sentence of the compliance section to include language stating "*The County shall not make a land use decision or issue a building permit approving development, including land divisions and property line adjustment ...*" clarifies the types of actions to which this code provision is targeted. Existing language is far reaching in its reference to all permits and is ambiguous as to what constitutes an approval, putting into question whether or not the County can make non-development related decisions which are defined under the code as permits (e.g. Planning Director Interpretations, Lot of Record Determinations, Address Changes, etc.). While the Planning Director and Hearings Officers have interpreted existing language to allow issuance of certain "non-development" permits reasoning that they do not constitute an "approval", this change removes ambiguity, making it clear that the County can take action on these types of applications. Further, MCC 37.0530 defines all "allowed uses" as Type 1 Permits, recognizing that they do not require a land use decision. County review is not required for development of some of these uses (e.g. farming activities, timber harvests, etc.); however, existing compliance language prohibits these activities on properties that are not in full compliance with the County Code. This change clarifies that allowed uses that do not require a land use decision or building permit are not subject to these sections.

The portions of §37.0560 and § 38.0560 that speak to when permits can be issued has been restructured into a list of circumstances where the County is free to take such action. The first item on the list includes existing language allowing issuance of a permit if it brings the property into full compliance with the County Code. Added to this is a sentence allowing "sequencing of permits or other approvals as part of a voluntary compliance agreement." The term "voluntary compliance agreement" comes from an ordinance that was recently presented to the Planning Commission, amending the County Violation and Enforcement regulations. Such agreements are effectively a written contract between the County and landowner outlining how compliance is to be achieved. By allowing sequencing of permits or other approvals as part of such agreements the County and landowners gain the flexibility to map out the steps necessary to satisfy County land use requirements in circumstances where, due to the severity of the violation or complexity of the permitting requirements, compliance cannot readily be achieved with a single permit or approval.

New language has also been added allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code. Imminent safety problems such as a failing slope adjacent to a road or home, or compromised utility infrastructure for water, sewer, fuel, or power, require immediate action to prevent harm not only to the subject property but other properties in the area. Since the

consequences of not being able to obtain approval for remedial action can impact a wide range of properties in addition to the parcel with the code compliance problem and considering the substantial amount of damage and potential for public harm that can result, it is prudent to add this language to ensure that the County permitting processes do not contribute to the problem. To be as clear as possible as to the range of activities that qualify under this provision, we have included a definition for the term *public safety*. The definition draws from language in Multnomah County Building Code §29.006 and §29.204 for Determination of Unsafe Buildings and includes examples of the types of conditions where the County can issue permits on non-compliant properties to facilitate abatement of the problem.

A clause has also been added allowing the County to issue permits for work related to and within a valid easement over, on or under an affected property. Such work might include the construction or repair of stormwater facilities, flood control structures, utilities, or roads. These projects are often linear in nature impacting more than one property. A party controlling an easement has a specific ownership right separate from those held by the owner of the underlying property. While they have some influence over what happens within the easement area, based upon its terms, they have little if any control over what happens on the rest of the property. The existing code compliance language does not draw a distinction between fee ownership of property and easement ownership meaning that an owner of a valid easement across a non-compliant property can not get permits for development until the compliance problem, unrelated to their easement interest, is resolved. This is inherently unfair and is resolved with these amendments.

3. **Explain the fiscal impact (current year and ongoing).** No financial impacts are anticipated.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain. Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. **Explain any legal and/or policy issues involved.** To the extent that “full compliance” language in the existing land use code may be at odds with building code standards requiring abatement of unsafe structures, these revisions eliminate the potential for conflict.

The Multnomah County Comprehensive Framework Plan identifies protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program, achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner (Part 1-5, Volume 2: Policies). The proposed amendments further these goals by giving the County the ability to issue permits on non-compliant properties for public facilities within valid easements (where the work is unrelated to the compliance problem) and allows landowners to obtain permits in response to legitimate public safety issues that might otherwise compromise their ability to live in a safe and healthy environment. This same set of Comprehensive Plan goals encourages citizen participation and problem solving, an objective that is advanced with the proposed revision to allow sequencing of permits to achieve code compliance.

5. **Explain any citizen and/or other government participation that has or will take place.** Notification of the Planning Commission hearing on the proposed ordinance amendment was published in the Oregonian newspaper. Copies of the revisions were also sent to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee, a step that is required for ordinance changes in the National Scenic Area. Gorge Commission staff has since contacted our office and indicated that they are not concerned by these changes. The proposed amendments were submitted to the State Department of Land Conservation and Development (DLCD) for their review. They have not provided comment.

**Required Signatures:**

Department/Agency Director: Robert A. Maestre

Date: 03/29/04

Budget Analyst

By: \_\_\_\_\_

Date:

Dept/Countywide HR

By: \_\_\_\_\_

Date:

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC-04-001**

Recommend to the Board of Commissioners the adoption of an ordinance amending Chapters 37 and 38 of the Multnomah County Code to clarify when the County is precluded from issuing permits for property that is not in full compliance with the County code, adding specific language to allow issuance of a permit when necessary to protect public safety.

**The Planning Commission Finds:**

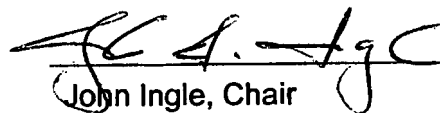
- a. The Planning Commission supports the objective that properties comply with County land use requirements, and recognizes this as the premise behind the current language in §37.0560 and §38.0560 of the Multnomah County Code requiring properties be in "full compliance" before an application for a permit is approved.
- b. While effective, this full compliance requirement has limitations in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence permits to achieve compliance.
- c. The proposed amendments, discussed in the February 20, 2004 staff report and described in Exhibit A to this resolution, resolves this by (1) clarifying that allowed uses, which do not require a land use decision or building permit, are not subject to the full compliance requirement; (2) allowing sequencing of permits or other approvals as part of a voluntary compliance agreement; (3) providing the County the ability to issue permits on non-compliant properties for public facilities within valid easements and; (4) allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code.
- d. The Multnomah County Comprehensive Framework Plan supports these changes, identifying protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program that is achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner.
- e. After notification of the proposed amendments was published in the Oregonian newspaper and copies mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee, the Planning Commission held a public hearing on March 1, 2004 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

The Multnomah County Planning Commission hereby recommends that the changes to sections §37.0560 and §38.0560 of the Multnomah County Code, as discussed in the staff report dated February 20, 2004 and described in Exhibit A to this resolution, be adopted by the Multnomah County Board of Commissioners.

Adopted this 1st day of March, 2004

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

## **Exhibit A to Planning Commission Resolution No. PC-04-001**

Amendments to Chapters 37 and 38 of the Multnomah County Code to clarify when the County is precluded from issuing permits for property that is not in full compliance with the County code, adding specific language to allow issuance of a permit when necessary to protect public safety.

### **Section 37.0560 of the Code is amended to read as follows:**

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

#### **§37.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2) It is necessary to protect public safety; or
- (3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, *Public Safety* means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

**Section 38.0560 of the Code is amended to read as follows:**

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

**§38.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, *Public Safety* means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. \_\_\_\_\_

Amending MCC § 38.0560 For The Columbia River Gorge National Scenic Area With Respect To Issuing Permits And Allowing Issuance Of A Permit When Necessary To Protect Public Safety

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

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

- a. The Board of Commissioners supports the objective that properties comply with County land use requirements, and recognizes this as the premise behind the current language in §38.0560 of the Multnomah County Code requiring properties be in “full compliance” before an application for a permit is approved.
- b. While effective, this full compliance requirement has limitations in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence permits to achieve compliance.
- c. The amendments in this ordinance resolve this problem by (1) clarifying that allowed uses, which do not require a land use decision or building permit, are not subject to the full compliance requirement; (2) allowing sequencing of permits or other approvals as part of a voluntary compliance agreement; (3) providing the County the ability to issue permits on non-compliant properties for public facilities within valid easements and; (4) allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code.
- d. The Multnomah County Comprehensive Framework Plan supports these changes, identifying protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program that is achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner. The Management Plan for the National Scenic Area is silent on this issue; therefore it is appropriate to rely upon the County Comprehensive Framework Plan for policy guidance.
- e. The Planning Commission is authorized by Multnomah County Code subsections 38.0530(D) and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this Ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was published in the Oregonian newspaper and copies mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee. At that hearing the Planning Commission adopted a resolution recommending these amendments be made by the Board of Commissioners.

**Multnomah County Ordains as follows:**

**Section 1. § 38.0560 is amended to read as follows:**

**§38.0560 Code Compliance And Applications.**

Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

(A) A permit or other approval, including building permit applications, may be authorized if:

(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

FIRST READING:

April 29, 2004

SECOND READING AND ADOPTION:

May 6, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Christopher D. Crean  
Christopher D. Crean, Assistant County Attorney



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1031**

Amending MCC § 38.0560 for the Columbia River Gorge National Scenic Area with Respect to Issuing Permits and Allowing Issuance of a Permit When Necessary to Protect Public Safety

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

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

- a. The Board of Commissioners supports the objective that properties comply with County land use requirements, and recognizes this as the premise behind the current language in §38.0560 of the Multnomah County Code requiring properties be in "full compliance" before an application for a permit is approved.
- b. While effective, this full compliance requirement has limitations in terms of the range of County actions that require compliance, its application to work within easements, and its lack of flexibility to allow landowners to obtain permits in response to legitimate public safety issues or work with the County to sequence permits to achieve compliance.
- c. The amendments in this ordinance resolve this problem by (1) clarifying that allowed uses, which do not require a land use decision or building permit, are not subject to the full compliance requirement; (2) allowing sequencing of permits or other approvals as part of a voluntary compliance agreement; (3) providing the County the ability to issue permits on non-compliant properties for public facilities within valid easements and; (4) allowing issuance of permits for public safety purposes even if the property is not in full compliance with the County code.
- d. The Multnomah County Comprehensive Framework Plan supports these changes, identifying protection of the public health, safety, and welfare as a goal of the County Land Use Planning Program that is achieved in part by assuring that the residents of Multnomah County are provided with a safe and healthy living environment and that public facilities and support facilities are provided in a timely, safe, and efficient manner. The Management Plan for the National Scenic Area is silent on this issue; therefore it is appropriate to rely upon the County Comprehensive Framework Plan for policy guidance.
- e. The Planning Commission is authorized by Multnomah County Code subsections 38.0530(D) and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this Ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was published in the Oregonian newspaper and copies mailed to the Gorge Commission, Forest Service, Indian tribal governments, the State Historic Preservation Office, and Cultural Advisory Committee. At that hearing the Planning Commission adopted a resolution recommending these amendments be made by the Board of Commissioners.

**Multnomah County Ordains as follows:**

**Section 1. § 38.0560 is amended to read as follows:**

**§38.0560 Code Compliance And Applications.**

Except as provided in subsection (A), The County shall not make a land use decision, or issue a building permit approving any application for a permit or other approval development, including land divisions and property line adjustments including building permit applications, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County. A permit or other approval, including building permit applications, may be authorized if it results in the parcel coming into full compliance with all applicable provisions of the Multnomah County Code.

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(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or

(2) It is necessary to protect public safety; or

(3) It is for work related to and within a valid easement over, on or under an affected property.

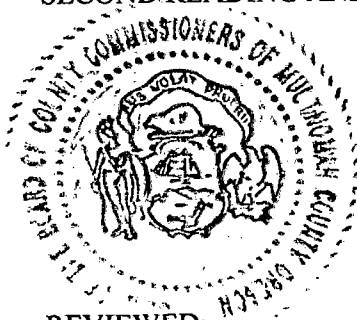
(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

FIRST READING:

\_\_\_\_\_  
April 29, 2004

SECOND READING AND ADOPTION:

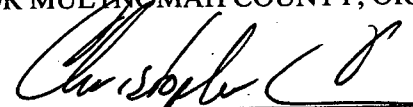
\_\_\_\_\_  
May 6, 2004



REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
Christopher D. Crean, Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-10

**Est. Start Time:** 10:42 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

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**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 33, Land Use Code, West Hills Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

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**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of five ordinances that make amendments to five different chapters of the Zoning Code. The amendments update the land use regulations in all the farm and forest zoning districts to include changes that have been made to State Statutes and Administrative Rules. The recommendation from the Planning Commission, the Planning Director, and the Department Director is for approval of the ordinances.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

In Oregon, lands outside of Urban Growth Boundaries which are important for farm and forest resource production are subject to land use protections in State Statute, Statewide Planning Goals, and Administrative Rules that implement the Statutes and Goals. Counties are then required to enact the state regulations within their own Land Use Plans and Zoning Codes.

Recently a pattern has emerged that every two years the state legislature enacts additional changes to the State Statutes governing farm and forest lands. Then, following the enacted statutes, the Land Conservation and Development Commission makes corresponding, and sometimes additional, changes to the Oregon Administrative Rules (OARs).

Most of the proposed amendments are mandated by the state and are actually in effect without adoption into the County regulations. However, their absence from the County Zoning Code makes it difficult for property owners and staff to find all relevant regulations that may apply to farm and forest lands.

The proposed amendments add new land uses to the list of uses allowed in farm and forest zones. Along with the new listing are also new standards for those land uses. New land uses include sites for model aircraft landing, fire service facilities, facilities for processing farm crops, parking of log trucks, farm dwellings on dairy farms, and farm dwellings for farmers that move to a new farm.

In addition, the amendments make changes to standards for some land uses that are presently listed in the farm and forest zones. Those changes include amended standards for approving new dwellings, for approving certain land divisions in the forest zones, for the definition of allowed activities associated with churches, for farm stands, for uses allowed in private and public parks, and for the time period that certain dwelling approvals are valid before they expire.

There are five different ordinances because each of the Rural Plan Areas has its own Zoning Code Chapter and a separate ordinance is required to amend each Chapter.

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

No fiscal impact is expected. The amendments are either mandatory and already in effect, or are clarifications of existing standards.

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

Under the State of Oregon program of land use planning, protection of farm and forest lands for their production value is a major concern. Coupled with the Urban Growth Boundary concept, the result is state mandated restrictions on those lands. This situation leaves some property owners frustrated that counties do not have more flexibility in allowing more development opportunities in those areas.

At the public hearing before the Planning Commission there were generally two concerns expressed. The first involved a need for staff to explain the limits available to local jurisdictions in allowing development in farm and forest areas. The second concern of the property owners that gave testimony was regarding the present approval standards the county has adopted for approval of a certain type of dwelling (a "template dwelling"). The approval standards for a "template dwelling" are one part of the zoning regulations where Multnomah County is more restrictive than the state rules require. (A county may be more restrictive in this standard, but not more lenient.) The standards were adopted as part of the West Hills Rural Area Plan process and are part of the County's Comprehensive Plan.

Staff's response to the second concern is that the proposal before the Board is limited to required code updates and clarifications of existing standards. Other changes that

involve changing Rural Area Plan Policies must be done in a different process. To examining the appropriateness of an approval standard that would increase the number of potential dwellings in the forest zones is a land use issue that should be part of an update of a Rural Area Plan and notice must be given to all property owners and the State Land Conservation and Development Commission of the possibility of making such changes to development approval standards.

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

The proposed amendments have been submitted to the State Department of Land Conservation and Development for their review. No comments have been returned.

A notice of the public hearing before the Planning Commission was mailed to over 1,500 owners of farm and forest zoned properties (in accordance with the requirements of Ballot Measure 56). Fourteen citizens attended the hearing, six citizens gave testimony, and one submitted written comments.

Notice of the Board of County Commissioners hearing will be sent to all those that attended the Planning Commission hearing or submitted testimony.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

**Budget Analyst**

By: \_\_\_\_\_

Date:

**Dept/Countywide HR**

By: \_\_\_\_\_

Date:



**MULTNOMAH COUNTY**  
**DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>th</sup> Avenue Portland, OR 97233  
(503) 988-3043 FAX: (503) 988-3389

**PROPOSED ZONING CODE AMENDMENTS**  
**REFLECTING AMENDED OREGON ADMINISTRATIVE RULES AND STATE STATUTES**

**RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS**  
**FROM THE MULTNOMAH COUNTY PLANNING COMMISSION**

April 6, 2004, (PC 03-002)

**INTRODUCTION:**

The purpose of this staff report and proposed amendments to the Multnomah County Zoning Code are to update the Code to include State Statute and State Administrative Rule changes that have occurred during the last several years. The changes are related to land use regulations on farm and forest zoned lands outside of the Urban Growth Boundary.

Land use regulations on farm and forest lands are established by the State Legislature/Governor in State Statutes and by the Land Conservation and Development Commission (LCDC) in Administrative Rules. Counties are then required to adopt those regulations from statute and rule into their own Zoning Codes. The statutes are amended every two years by the legislature and then corresponding rule making is soon thereafter done by LCDC in response to the changes from the legislature.

Multnomah County has five different rural areas, each area with its own Zoning Code. This staff report includes proposed changes to the farm and forest zones in four of the rural areas. To avoid unnecessary repetition, this staff report contains only the farm zone and one of the forest zones in one Zoning Code Chapter. They are the Exclusive Farm Use (EFU) and Commercial Forest Use-2 (CFU-2) in Multnomah County Code (MCC) Chapter 33, West Hills Rural Plan Area. Those same changes would apply to all the farm and forest districts in County Code Chapters 34 (Sauvie Island and Multnomah Channel Rural Plan Area), 35 (East of the Sandy River Rural Plan Area), 36 (West of the Sandy River Rural Plan Area), and other forest zones in Chapter 33. In addition, at the end of this report are proposed amendments to two sections of Chapter 37, Administration and Procedures.

On the following pages is a summary of the major Code changes that are proposed. References to "MCC" are to the specific Multnomah County Code (MCC) section where the amendments are found.

**FOREST ZONES**

		<b><i>Conditional Uses</i></b>
1.	<b>Page 7,8</b> MCC 33.2210(B) 33.2230(D) (1)&(9)	<b>Parks and campgrounds.</b> Distinction is now made in the Oregon Administrative Rules (OARs) between private parks, private campgrounds, state parks, and local public parks and these differences are added. The definition of campground is proposed to be moved into the approval standards under the use listing for private campgrounds. "Youth Camps" are an optional use allowed in the OARs that will be addressed in a later work program involving all park related use listings.
		<b><i>Template and Heritage Tract Dwellings</i></b>
2.	<b>Page 14</b> MCC 33.2240(A)	<b>Template dwelling.</b> Amendments propose deleting the superceded state requirement that parcel be "lawfully created prior to January 25, 1990." Other amendments are proposed to bring the language in this section to better match the wording in the OARs. They include substituting the word "predominant" for "primarily" in the description of the composition of soils and adding the requirement that other nearby dwellings that existed on January 1, 1993 also "continue to exist." Also, a provision is added to recognize that "continue to exist" can be satisfied by a replacement dwelling that was lawfully approved. Another change was an explanation of the effect of the "date of creation and existence" State Rule requirement.
3.	<b>Page 18</b> MCC 33.2240(B)	<b>Heritage tract dwelling.</b> Add optional provision which allows using a US Forest Service road, in certain circumstances, for meeting the access requirements. Add requirement that ownership of the parcel since prior to January 1, 1985 has been "continuous." Added an explanation of the effect of the "date of creation and existence" State Rule requirement.
		<b><i>Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices</i></b>
4.	<b>Page 21</b> MCC 33.2255	<b>Requirement to Record a Deed Restriction Regarding Farm or Forest Practices.</b> This requirement will apply to all approval of single family dwellings pursuant to language in State Statute and Rules.
		<b><i>Lots of Exception</i></b>
5.	<b>Page 22</b> MCC 33.2265	<b>Lots of Exception.</b> For this special type of land division that allows smaller than the minimum lot size for new lots an optional allowance for physical factors such as roads and streams in determining the minimum parcel size has been added. Also adds optional provision that allows partitioning of a parcel where there are two legal houses on one parcel, thereby allowing the sale of each house on its own parcel.
		<b><i>Lot of Record</i></b>
6.	<b>Page 26</b> MCC 33.2275	<b>Lot of Record clarification.</b> Adds clarification that existing "aggregation requirement" that requires grouping of smaller contiguous parcels that were in the same ownership on February 20, 1990 only applies to parcels in forest and farm zones and

	(A)(2)(b)	not to parcels in "exception zones" such as MUA-20, RR, and RC.
		<b>Development Standards for Dwellings and Structures</b>
7.	<b>Page 29</b> MCC 33.2305 (A)(5)(c)5.	<b>Development standards.</b> Replaces existing language with OAR wording for describing the area that a homeowner is obligated to maintain fire safety zones, or cleared areas. (Only "land surrounding the dwelling that is owned or controlled by the home owner").

### FARM ZONES

		<b>Allowed Uses</b>
8.	<b>Page 31</b> MCC 33.2620(L)	<b>Replacement dwelling.</b> Add provision allowing the ability to site a dwelling on the EFU zoned portion of a parcel that is split by another zone that allows a dwelling.
9.	<b>Page 32</b> MCC 33.2620(O)	<b>Churches.</b> Added language from Oregon Revised Statutes (ORS) 215.441 which describes the activities that are customarily associated with religious activity.
10.	<b>Page 34</b> MCC 33.2620(V)	<b>Site for model aircraft.</b> Model aircraft takeoff and landing sites are added as a listed use in the zone as required by state statute.
11.	<b>Page 35</b> MCC 33.2620(W)	<b>Fire service facilities</b> are added as a land use allowed in the EFU zone, with the limitation that the facility provide "primarily" rural fire protection services.
12.	<b>Page 35</b> MCC 33.2620(X)	<b>Irrigation canals and delivery lines associated with water districts</b> are added as an allowed land use as required by state statute.
13.	<b>Page 36</b> MCC 33.2620(Y)	<b>Utility facility service lines within or near public right-of-ways to the serviced property</b> are added as a listed land use as required by statute.
14.	<b>Page 37</b> MCC 33.2620(Z)	<b>Application of reclaimed water, agricultural or industrial process water or biosolids</b> is added as a listed land use, subject to certain Department of Environmental Quality permits and other restrictions. Listing this use is required by state statute.
		<b>Review Uses</b>
15.	<b>Page 37</b> MCC 33.2625(A)	<b>Wetland waste treatment systems</b> is added to the description of what are "utility facilities necessary for public service." This change was also made by the State Legislature.



16.	<b>Page 38</b> MCC 33.2625(C)	<b>Relative farm help dwelling.</b> Added an expanded list of eligible relatives that, if they were involved in the farm operation, would qualify for approval of an additional dwelling on the farm for them to live in. Also added a state required provision about the status of any foreclosure of the relative help dwelling by the financier.
17.	<b>Page 39</b> MCC 33.2625(D)(1)	<b>Dwelling on high-value farmland soils, \$80,000 income.</b> Added introductory title to this subsection and most of all the other types of farm dwellings to follow. Added description of what parcels can be used for income test and how gross income is calculated, including removal of requirement that the income is to be calculated in 1994 dollars.
18.	<b>Page 43</b> MCC 33.2625(D)(3)	<b>Dwelling on not high-value farmland soils, capable of producing the medium level of annual gross sales.</b> Added condition that dwelling be occupied by persons principally engaged in the farm use.
19.	<b>Page 46</b> MCC 33.2625(D)(4)	<b>Dwelling on not high-value farmland soils, \$40,000 income or mid-point of median income range.</b> Amendments are proposed that define farm operations and how specify how gross income is to be calculated. All amendments required by Oregon Administrative Rules are included with one additional staff suggested change that requires a comparison of the purchase/sale prices of cattle transactions used to meet the gross income test with the prevailing ranges of such sales.
20.	<b>Page 49</b> MCC 33.2625(D)(5)	<b>Dwelling on commercial dairy farm.</b> This type of qualifying criteria for a farm dwelling is added as required by statute with OAR language using the state's wording of restrictions and conditions. This section allows approval of dwelling if the applicant owns a sufficient number of producing dairy animals that are "capable" of meeting the farm income test.
21.	<b>Page 51</b> MCC 33.2625(D)(6)	<b>Dwelling for farmer that moves to a new farm.</b> This additional type of farm dwelling is required to be added by state statute. The subsection allows for a dwelling where an applicant worked a farm elsewhere and then moves to new 80 acre farm that has produced sufficient income to meet the income test (by the prior owner).
22.	<b>Page 52</b> MCC 33.2625(E)	<b>Accessory farm dwelling.</b> In conformance with state rules, the description of this type of farm dwelling is amended to include all types of farm housing, including those previously named "seasonal farm worker housing." The last legislature eliminated "seasonal farm worker housing" as a separate dwelling type with its own approval standards. Also added is a provision specific to dairy farms.
23.	<b>Page 56</b> MCC 33.2625(F)	<b>Heritage tract dwelling on not high-value farmland.</b> Heritage Tract dwellings require that the applicant for the dwelling be an "owner" of the property since before January 1, 1985. However, the definition of "owner" can include a long list of relatives of the deed owner, which this amendment changes to match the current version of state law.

24.	<b>Page 58</b> MCC 33.2625(G)	<b>Seasonal farmworker housing.</b> This listed use is deleted because the State Legislature made changes in state law and added this use as a type of “accessory farm dwelling.”
25.	<b>Page 59</b> MCC 33.2625(I)	<b>Farm stands.</b> As required by statute rules, proposed amendments require that part of the crops sold shall be from the owners own farm operation they add an allowance for “fee-based activity to promote the sale of farm crops or livestock sold at the farm stand.”
26.	<b>Page 60</b> MCC 33.2625(O)	<b>Facility for the processing of farm crops.</b> This land use has been added as required by state statute. This is a facility that is located on a farm operation that produces at least one-quarter of the crops processed at the facility. The buildings are limited in square feet of floor area.
27.	<b>Page 61</b> MCC 33.2625(P)	<b>Parking of no more than seven log trucks.</b> This land use listing was moved from the conditional use section to the review use section of the code. Listed restrictions on the use are in ORS 215.311.
		<i>Conditional Uses</i>
28.	<b>Page 61</b> MCC 33.2630(A)	<b>Commercial activities in conjunction with farm use.</b> This listing is proposed to be amended to recognize that the newly added “facility for the processing of farm crops” in #26 above is allowed for smaller facilities as a review use.
29.	<b>Page 62</b> MCC 33.2630(C)	<b>Residential home.</b> This land use listing is deleted because the use is actually a defined type of “family” in MCC 33.0005(F)(1) and as such is not subject to conditional use standards.
30.	<b>Page 62</b> MCC 33.2630(C)	<b>Public parks and playgrounds.</b> (This use will not appear in Chapter 36, West of the Sandy River Zoning Code.) Under the same number where “residential home” in #29 above will be deleted, it is proposed to add this land use. The proposal is being made to match how parks related uses are differentiated in the Oregon Administrative Rules. Changes in the OARs during the past few years have given different restrictions and approval standards to public parks and public playgrounds from those for public community centers. This new listing, for just public parks and playgrounds, is proposed with the phrase “may be established consistent with the provisions of ORS 195.120” as a “place holder” until a future parks planning work program fills out the details of this section and all similar uses in the farm and forest zones.
31.	<b>Page 63</b> MCC 33.2630(D)	<b>Private parks, playgrounds, hunting and fishing preserves, and campgrounds.</b> The definition of campground is added to this section as one of the listed restrictions on the land use, along with new additional restrictions and conditions of approval. Taken out of this subsection are parks and community facilities operated by a nonprofit community organization.

32.	<b>Page 66</b> MCC 33.2630(E)	<b>Community centers owned by government or non-profit.</b> Parks and playgrounds are proposed to be moved out of this subsection and added in #s 30 and 31 above, as applicable.
33.	<b>Page 68</b> MCC 33.2630(N)	<b>Parking of log trucks</b> is proposed to be moved from this list of conditional uses to review uses, (see 27 above).
34.	<b>Page 68</b> MCC 33.2630(O)	<b>Heritage tract dwelling on high-value farmland.</b> Added OAR language about how the phrase “cannot practicably be managed for farm use” shall be interpreted.
35.	<b>Page 70</b> MCC 33.2630(P)	<b>Heritage tract dwelling on high-value farmland – another circumstance where this dwelling type may be allowed.</b> Added OAR language that may be used if the subject parcel is a “flag parcel.”
		<b><i>Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices</i></b>
36.	<b>Page 71</b> MCC 33.2655	<b>Requirement to Record a Deed Restriction Regarding Farm or Forest Practices.</b> This requirement will apply to all approval of single family dwellings pursuant to language in State Statute and Rules.
		<b><i>Lot of Record</i></b>
37.	<b>Page 73</b> MCC 33.2675 (A)(2)(b)	<b>Lot of Record clarification.</b> Added a clarification that the “aggregation requirement” which requires grouping of smaller contiguous parcels that were in the same ownership on February 20, 1990 shall only apply to parcels in forest and farm zones and not to parcels in “exception zones” (MUA-20, RR, and RC) or urban zones. (In Chapter 35 this change also includes the Columbia River Gorge National Scenic Area zones with the exception and urban zones.)

### ADMINISTRATION AND PROCEDURES, CHAPTER 37

		<b><i>Expiration and Extension of a Type II or Type III Decision in EFU and CFU Zones</i></b>
38.	<b>Page 75</b> MCC 37.0670	<b>Recording of Decision.</b> Delete requirement that the “Notice of Decision” of any Type II, III, and IV land use decision must be recorded within 30 days after the decision. “Notice of Decision” must still be recorded with the deed records before any permits are issued.
39.	<b>Page 76</b> MCC 37.0690	<b>Expiration of decisions approving certain dwellings.</b> The number of years that dwelling approvals are valid (time that an applicant has to take “development action” before the approval expires) has been increased for certain types of dwellings in the EFU and CFU districts. In general, the increase in time is from 2 years to 4 years, with an extension of two years allowed for certain circumstances.
40.	<b>Page 78</b> MCC 37.0750	<b>Expiration of prior land use decisions.</b> Dwelling approvals that are described in ORS 215.417 have additional time to begin construction before the approval expires.

## DRAFT CODE AMENDMENTS:

Language underlined is proposed to be added and language with ~~strikethroughs~~ is proposed to be deleted. In order to reduce the length of this report certain code parts are not included if there are no changes proposed in the parts. To show where that has occurred, three asterisks \* \* \* are shown where subsections have been skipped.

*[Staff comments within the text are within parenthesis in italics and centered on the page.]*

### GENERAL PROVISIONS

#### § 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.

\* \* \*

(D)(1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to certain standards for approval of a dwelling in those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\* \* \*

### COMMERCIAL FOREST USE CFU-2

#### § 33.2210 DEFINITIONS

As used in MCC 33.2200 through 33.2310, unless otherwise noted, the following words and their derivations shall have the following meanings:

\* \* \*

(B) ~~Campground~~—An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

*[There are variations of this definition for different listings in the Administrative Rules (e.g. private, state, and local public) and, therefore, the definition and restrictions are moved to the particular subsection where the use is found.]*

#### § 33.2230 CONDITIONAL USES

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) A Large Acreage Dwelling pursuant to the provisions of MCC 33.2235 and 33.2305.

(B) A Template Dwelling pursuant to the provisions of MCC 33.2240(A), and 33.2305.

(C) A Heritage Tract Dwelling pursuant to the provisions of MCC 33.2240(B), and 33.2305.

(D) The following Community Service Uses pursuant to the provisions of MCC 33.2245, 33.2305, 33.6000 through 33.6010, and 33.6100 through 33.6230.

(1) Private park and private C campground. In addition to the approval standards listed in MCC 33.2230(D) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

**[660-006-0025**

**Uses Authorized in Forest Zones**

\* \* \*

*(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:*

\* \* \*

*(e) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the*

*campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.*

*\* \* \**

***["Youth Camps" as defined and described in OAR 660-006-0031, are different from private campgrounds and are not a listed use in the forest zones of Multnomah County. It is recommended that a future work program include this land use with other needed park related code amendments.]***

- (2) Cemetery.
- (3) Fire station for rural and forest fire protection.
- (4) Aid to navigation and aviation.
- (5) Water intake facility, related treatment facility, pumping station, and distribution line.
- (6) Reservoir and water impoundment.
- (7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width or new electric transmission line with a right-of-way width of up to 100 feet as specified in ORS 772.210.
- (8) Forest management research and experimentation facility as defined by ORS 526.215.
- (9) ~~State and Local Public Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.~~

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

- 1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and
- 2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

*[Staff recommends that this section be included in a future "parks planning" work program for further explanation of process and uses.]*

**[660-006-0025**

**Uses Authorized in Forest Zones**

\* \* \*

(4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:

\* \* \*

(f) Public parks including only those uses specified under OAR 660-034-0035.]

**[660-034-0035**

**Park Uses On Agricultural and Forest Land**

(1) All uses allowed under Statewide Goal 3 are allowed on agricultural land subject to a state park master plan, and all uses allowed under Statewide Goal 4 are allowed on forest land subject to a state park master plan, provided such uses are also allowed under OAR 736, Division 18 and all other applicable laws, goals, and rules.

(2) A local government is not required to adopt an exception to Statewide Planning Goals 3 or 4 for the following uses on agricultural or forest land within a state park provided the uses, alone or in combination, meet all statewide goals and are authorized in a state park master plan adopted by OPRD, including state park master plans adopted by OPRD prior to the effective date of this division:

(a) Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

(b) Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

(c) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

(d) Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

- (e) Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;*
- (f) Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;*
- (g) Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging;*
- (h) Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education;*
- (i) Visitor lodging and retreat facilities in state parks: historic lodges, houses or inns and the following associated uses in a state park retreat area only:*
  - (A) Meeting halls not exceeding 2000 square feet of floor area;*
  - (B) Dining halls (not restaurants).]*

**[660-034-0040**

**Planning for Local Parks**

- (1) Local park providers may prepare local park master plans, and local governments may amend acknowledged comprehensive plans and zoning ordinances pursuant to the requirements and procedures of ORS 197.610 through 197.625 in order to implement such local park plans. If a local government decides to adopt a local park plan as part of the local comprehensive plan, the adoption shall include:*
  - (a) A plan map designation, as necessary, to indicate the location and boundaries of the local park; and*
  - (b) Appropriate zoning categories and map designations ( a "local park" zone or overlay zone is recommended), including objective land use and siting review criteria, in order to authorize the existing and planned park uses described in local park master plan.*
- (2) Unless the context requires otherwise, this rule does not require changes to:*
  - (a) Local park plans that were adopted as part of an acknowledged local land use plan prior to the effective date of this rule; or*



*(b) Lawful uses in existence within local parks on the effective date of this rule.*

*(3) All uses allowed under Statewide Goal 3 are allowed on agricultural land within a local park and all uses allowed under Statewide Goal 4 are allowed on forest land within a local park, in accordance with applicable laws, statewide goals, and rules.*

*(4) A local government is not required to adopt an exception to Statewide Planning Goals 3 or 4 for the uses listed in OAR 660-034-0035(2)(a) through OAR 660-034-0035(2)(g) on agricultural or forest land within a local park provided such uses, alone or in combination, meet all other statewide goals and are described and authorized in a local park master plan that:*

*(a) Is adopted as part of the local comprehensive plan in conformance with Section (1) of this rule and consistent with all statewide goals;*

*(b) Is prepared and adopted applying criteria comparable to those required for uses in state parks under OAR 736, Division 18; and*

*(c) Includes findings demonstrating compliance with ORS 215.296 for all uses and activities proposed on or adjacent to land zoned for farm or forest use.]*

#### **[660-034-0010**

##### **Definitions**

*(8) "Local park" is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance.*

*\* \* \**

*(16) "State park" is any property owned or managed by the Oregon Parks and Recreation Department (OPRD) and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. The following OPRD properties are not state parks for purposes of this rule: endowment properties and administrative sites.*

(10) Utility facility for the purpose of generating power provided the facility not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.

(11) Radio and television transmission towers subject to the definitions, restrictions and standards in CFU-1, CFU-2 and CFU-5: 33.6015(A)(15) and 33.6100 through 33.6130 and wireless communications facilities when found to satisfy the requirements of MCC 33.6175 through 33.6188.

(12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

(13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation subject to the definitions, restrictions and standards in MCC 33.6200 through 33.6230.

(14) Private hunting and fishing operation without any lodging accommodations.

(15) Private seasonal accommodations for a fee hunting operation or fishing, provided:

(a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(b) Only minor incidental and accessory retail sales are permitted;

(c) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons or fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) Accommodations for fishing must be located within 1/4 mile of fish bearing Class I waters.

(16) Mining, processing and production of geothermal resources.

(E) The following uses pursuant to the provisions of MCC 33.2245, .33.2305, 33.6300 through 6315, 33.6325 through 33.6340, 33.6500 through 33.6535.

(1) Mining and processing of aggregate and other mineral or subsurface resources as defined in ORS Chapter 517;

(2) Permanent facility for the primary processing of forest products;

(3) Permanent logging equipment repair and storage;

(4) Log scaling and weigh stations;

(5) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels;

(6) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels;

(7) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels; and

(8) Expansion of aircraft landing areas auxiliary to forestry practices, notwithstanding the provisions of MCC 33.4010 through 33.4040.

(F) Type B home occupation pursuant to MCC 33.6650 through 33.6660 and provided:

(1) That no sale of merchandise is made from the premise; and

(2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line.

(G) Lots of Exception pursuant to the provisions of MCC 33.2265.

**§ 33.2240    TEMPLATE AND HERITAGE TRACT DWELLINGS**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC 33.2275 ~~and have been lawfully created prior to January 25, 1990;~~

*[Note: The "created prior to January 25, 1990" requirement is not in any of the current Oregon Administrative Rules or in any of the County Rural Area Plans. The standard was first adopted into the County Code on January 7, 1993 in compliance with the January 25, 1990 adopted Administrative Rules. Later in 1993, the legislature passed HB 3661 which changed many of the Administrative Rules, including deleting the "created prior to January 25, 1990" requirement.*

(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 33.2305 with minimum yards of 60 feet to the centerline of any adjacent public or private road serving two or more properties and 130 feet to all other property lines. Exceptions to this standard shall be pursuant to MCC 33.2310, as applicable;

(3) The tract shall meet the following standards:

(a) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
  2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or
- (c) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

***[The Template Test in Multnomah County Zoning Code Chapters requires a higher number of existing dwellings than the minimum set by the State Rules. In addition, Multnomah County Code requires that the dwellings be located within the template. Multnomah County's use of these more restrictive requirements has been confirmed as a legal local option by the State Land Use Board of Appeals.]***

***[660-006-0027***

***Dwellings in Forest Zones***

*(1) Dwellings authorized by OAR 660-006-0025(1)(d) are:*

*(f) In western Oregon, a governing body of a county or its designate may allow the establishment of a single family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:*

*(A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:*

*(i) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*

*(ii) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.*

*(B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:*

*(i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*

(ii) *At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.*

(C) *Capable of producing more than 85 cubic feet per acre per year of wood fiber if:*

(i) *All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and*

(ii) *At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.*

\* \* \*

(d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.

(e) There is no other dwelling on the tract,

(f) No other dwellings are allowed on other lots (or parcels) that make up the tract;

(g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

(h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

(i) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2240(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 33.2240(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

#### **[660-006-0005**

##### **Definitions**

*For the purpose of this division, the following definitions apply:*

\* \* \*

(4) *"Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.*

(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional

dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

(5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

(6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:

(a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;

(7) The dwelling meets the applicable development standards of MCC 33.2305;

(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;

(a) The covenants, conditions and restrictions shall specify that:

1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;

(c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

(B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a tract:

(a) That is not developed with a single family residence, and

(b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

(c) That is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. ~~4. The road shall be maintained and either paved or surfaced with rock, and~~ The road shall not be:

1. A U. S. Bureau of Land Management road; or

2. ~~The road shall not be a~~ A U.S. Forest Service road or Bureau of Land Management road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

***[ORS Chapter 368 – County Roads***

***GENERAL PROVISIONS***

***368.001 Definitions. As used in this chapter:***

\* \* \*

(5) "Public road" means a road over which the public has a right of use that is a matter of public record.

\* \* \*]

***[OAR 660-006-0027***

***Dwellings in Forest Zones***

(1) *Dwellings authorized by OAR 660-006-0025(1)(d) are:*

\* \* \*

(c) *For purposes of subsection (a) of this section the dwelling must be located:*

(A) *On a tract in western Oregon that is composed of soil is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be*

*maintained and either paved or surfaced with rock and shall not be:*

- (i) A United States Bureau of Land Management road; or*
- (ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.]*

(d) For which deeds or other instruments creating the lots or parcels were recorded with the Department of General Services, or were in recordable form prior to January 1, 1985; and

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2240(B), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling;

**[660-006-0005**

**Definitions**

*For the purpose of this division, the following definitions apply:*

*\* \* \**

*(4) "Date of Creation and Existence." When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.*

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, ~~that~~ the tract was acquired and owned continuously by the present owner:

1. Since ~~P~~ prior to January 1, 1985; or

2. By devise or by intestate succession ~~by an antecedent of the~~ from a person who acquired the lot or parcel since prior to January 1, 1985.

3. For purposes of this subsection, "~~antecedent~~" "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.

**[660-006-0027**

**Dwellings in Forest Zones**



*(1) Dwellings authorized by OAR 660-006-0025(1)(d) are:*

*(a) A dwelling may be allowed if:*

*\* \* \**

*(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.]*

(2) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(3) When the tract on which the dwelling will be sited consists of more than one lot or parcel, the remaining lots or parcels shall be consolidated into a single lot or parcel prior to the issuance of any development permits.

(4) Prior to the issuance of any development permits the owner of the tract shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:

(a) The Transportation and Land Use Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved;

(b) The property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;

(5) The dwelling meets the applicable standards of MCC 33.2305.

*\* \* \**

**[660-006-0027**

***Dwellings in Forest Zones***

*(1) Dwellings authorized by OAR 660-006-0025(1)(d) are:*

*(a) A dwelling may be allowed if:*

*(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (b) of this section:*

*(i) Since prior to January 1, 1985; or*

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

(b) For purposes of subsection (a) of this section, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(c) For purposes of subsection (a) of this section the dwelling must be located:

(A) On a tract in western Oregon that is composed of soil is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

(i) A United States Bureau of Land Management road; or

(ii) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

\* \* \*

(d) A dwelling authorized under subsection (a) of this section shall comply with the following requirements:

(A) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based;

(B) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.]

**§ 33.2255 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

\* \* \*

***[660-006-0029 Siting Standards for Dwellings and Structures in Forest Zones***

*The following siting standards or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-006-0035 to identify the building site:*

*\* \* \**

*(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.]*

**§ 33.2265 LOTS OF EXCEPTION**

An exception to permit the creation of a lot of less than the minimum specified in MCC 33.2260 (A) may be authorized as provided in (A) or (B) below, subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

- (1) ~~(A)~~ The Lot of Record to be divided exceeds the area requirements of MCC 33.2260 (A);
- (2) ~~(B)~~ The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;
- (3) ~~(C)~~ The Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;
- (4) ~~(D)~~ The division will create no more than one lot which is less than the minimum area required in MCC 33.2260 (A);
- (5) ~~(E)~~ The division complies with the dimensional requirements of MCC 33.2260 (C) through (F); and
- (6) ~~(F)~~ The parcel not containing the dwelling is not entitled to a dwelling. ~~(1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. (2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.~~

**[660-006-0026**

***New Land Division Requirements in Forest Zones***

*(2) New land divisions less than the parcel size in section (1) of this rule may be approved for any of the following circumstances:*

*\* \* \**

*(b) For the establishment of a parcel for a dwelling on land zoned for forest use, subject to the following requirements:*

*(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;*

*(B) The dwelling existed prior to June 1, 1995;*

*(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or*

*(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.*

*(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.*

*\* \* \**

*(3)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.*

*(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.*

*(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.*

*(4) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.]*

(B) A parcel that contains two dwellings may be divided provided that:

(1) Two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(2) Each of the dwellings complies with the criteria for a replacement dwelling under ORS 215.283 (1)(s);

(3) One of the parcels created is between two and five acres in size;

(4) At least one dwelling is located on each parcel created;

(5) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 33.2260(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas.

*[The standards in (5) above are proposed to be added in response to concerns of the Planning Commission that there was a lack of approval criteria addressing how the land division might affect forest practices.]*

(6) The development standards for dwellings and structures in MCC 33.2305, the exception standards for secondary fire safety zones in MCC 33.2310, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

*[The clarification in (6) was added in order to clarify that certain area and dimensional requirements should not apply to this special type of land division.]*

(7) The landowner of a lot or parcel created under this subsection provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the County Planning Director indicating that the Comprehensive Plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(C) The County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by (A) and (B) above. The record shall be readily available to the public.

(D) 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.

*[The changes in (B) above have already been made in Chapter 36, West of Sandy River.]*

***[ORS 215.780(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:***

*\* \* \**

*(e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under a statewide planning goal protecting forestland if:*

*(A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;*

*(B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(t) or 215.283 (1)(s);*

*(C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;*

*(D) At least one dwelling is located on each lot or parcel created under this paragraph; and*

*(E) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use.*

*(3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record shall be readily available to the public.*

*(4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing dwelling on the lot or parcel was approved under:*

*(a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or*

*(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.*

#### **§ 33.2275 LOT OF RECORD**

(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

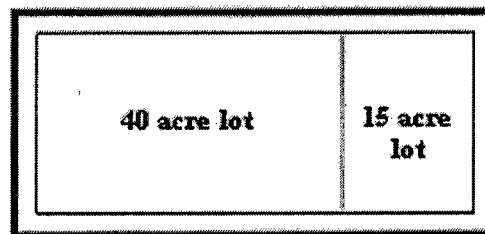
(a) Which were held under the *same ownership* on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

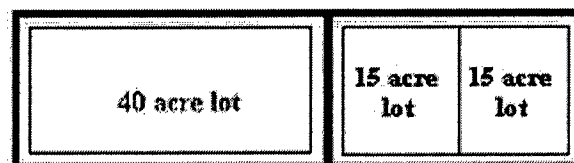
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

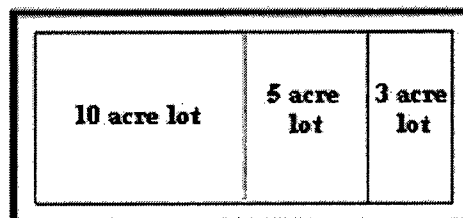
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



**Example 1:**  
**One 55 acre Lot of Record**



**Example 2:**  
**One 40 acre Lot of Record and**  
**one 30 acre Lot of Record**



**Example 3:**  
**One 18 acre Lot of Record**

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

*[This makes clear that the aggregation requirements apply only to farm and forest zones.]*

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

*[Adding this last type of Lot of Record is needed for parcels and lots created after the February 19, 1990, the date used for the aggregation requirement.]*

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;
- (5) February 20, 1990, lot of record definition amended, Ord. 643;
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;
- (7) August 8, 1998, CFU-2 zone applied, Ord. 916 (reenacted by Ord. 997);
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2290, may be



occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

- (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.

**§ 33.2305 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E) and 33.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

- (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of 33.2260 (C) through (G);
- (2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;
- (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and
- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:
  - (a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;
  - (b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC 33.2305 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;
  - (c) Maintenance of a primary and a secondary fire safety zone on the subject tract.
    1. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with

greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

2. On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

3. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 33.2260 (F) and 33.2310.

4. No requirement in 1., 2., or 3. above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

5. Maintenance of a primary and a secondary fire safety zone is required only ~~to the extent possible within the area of an approved yard (setback to property line)~~ on land surrounding the dwelling that is owned or controlled by the home owner.

***[OAR 660-006-0035***

***Fire-Siting Standards for Dwellings and Structures***

\* \* \*

*(3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.]*

(d) The building site must have a slope less than 40 percent.

\* \* \*

**EXCLUSIVE FARM USE - EFU****§ 33.2610 DEFINITIONS**

As used in MCC 33.2600 through MCC 33.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

(A) ~~Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~

*[There are variations of this definition for different listings in the Administrative Rules (e.g. private, state, and local public) and, therefore, the definition and restrictions are moved to the particular subsection where the use is found.]*

\* \* \*

**§ 33.2620 ALLOWED USES**

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result.

(H) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous

public-owned property utilized to support the operation and maintenance of public roads and highways.

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480 and listed on the National Register of Historic Places.

(K) Creation of, restoration of or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established *habitable dwelling*.

(1) In the case of a replacement dwelling, the existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

***[ORS 215.283(1)(s) listed use. (L)(2) is found in the updated Chapter 36, West of Sandy River.]***

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(8)(b) In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of*

*release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section;*

\* \* \*

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 33.4100 through MCC ~~33.4220~~ 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC ~~33.7070~~ 33.7060 and MCC 33.7450.

***[Technical corrections.]***

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands

(O) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 33.4100 through MCC ~~33.4220~~ 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC ~~33.7070~~ 33.7060 and MCC 33.7450.

***[Technical corrections.]***

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

**[660-033-0120 Table 1  
Parks/Public/Quasi-Public**

\* \* \*

*Churches and cemeteries in conjunction with churches consistent with ORS 215.441.]*

**[215.441 Use of real property for religious activity; county regulation of real property used for religious activity.**

*(1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for prekindergarten through grade 12 or higher education.*

*(2) A county may:*

*(a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or*

*(b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.*

*(3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.]*

(P) Structures such as garages, carports, studios, pergolas, private workshops, barns, loafing sheds, storage buildings, greenhouses or similar structures, whether attached or detached, when in accordance with the yard requirements of this district;

(Q) Structures or fenced runs for the shelter or confinement of poultry or livestock;

(R) Type A home occupation pursuant to the definition and restrictions of MCC 33.0005 (H) (6) (a). Home occupations as defined by MCC 33.0005 (H) (6) (a) do not allow the level of activity defined in ORS 215.448.

(S) Actions taken in response to an emergency/disaster event as defined in MCC 33.0005 pursuant to the provisions of MCC 33.0535.

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

(U) On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. On-site filming and activities accessory to on-site filming" does not include: facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

(V) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

*[ORS 215.283(1)(t) listed use. (Updated in Chapter 36, West of Sandy River.)]*

*[660-033-0120 Table 1  
Parks/Public/Quasi-Public*

*\* \* \**

*A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.]*

*[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses*

*\* \* \**

*(26) Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.]*

(W) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.6020(A) (yards), MCC 33.7000 through MCC 33.7060 (design review), and MCC 33.7450 (signs).

*[From conversations between Charles Beasley, Multnomah County Planner and staff with the State Department of Land Conservation and Development, we were told that the legislative intent was to have the fire protection services "primarily" serve the rural areas and we could add that modifier along with development requirements similar to other "Brentmar-like" uses such as those for Churches. A case in Clackamas County, Keicher v. Clackamas County confirmed that interpretation at the Oregon Court of Appeals.]*

***[ORS 215.283(1)(v) listed use. (Updated in Chapter 36, West of Sandy River.)***

*215.283(1)(v) Fire service facilities providing rural fire protection services.]*

***[660-033-0120 Table 1***

***Utility/Solid Waste Disposal Facilities***

***\* \* \****

***(Notation "A" preceding the listing in Table 1 means the following.)***

*A: Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.*

*A (High-Value Farmland) A (All Other) Fire service facilities providing rural fire protection services.]*

(X) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

***[ORS 215.283(1)(w) listed use. (Updated in Chapter 36, West of Sandy River.)***



215.283(1)(w) *Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.]*

**[660-033-0120 Table 1**

***Utility/Solid Waste Disposal Facilities***

\* \* \*

***(Notation "A" preceding the listing in Table 1 means the following.)***

*A: Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.*

*A (High-Value Farmland) A (All Other) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.]*

(Y) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- (1) A public right of way;
- (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (3) The property to be served by the utility.

***[ORS 215.283(1)(x) listed use. (Updated in Chapter 36, West of Sandy River.)***

**[660-033-0120 Table 1**

***Utility/Solid Waste Disposal Facilities***

\* \* \*

*Utility facility service lines.]*

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:*

- (a) A public right of way;*
- (b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or*
- (c) The property to be served by the utility.]*

(Z) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

***[ORS 215.283(1)(y) listed use.]***  
***[660-033-0120 Table 1***

***Parks/Public/Quasi-Public***

***\* \* \****

*Land application of reclaimed water, agricultural or industrial process water or biosolids.]*

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

***\* \* \****

*(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division.]*

**§ 33.2625 REVIEW USES**

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating ~~electrical~~ power for public use by sale or transmission towers over 200 feet in height as follows provided:

***[ORS 215.283(1)(d) listed use. (Updated in Chapter 36, West of Sandy River.)]***

***[OAR 660-033-0120 Table 1***  
***Utility/Solid Waste Disposal Facilities***

***\* \* \****

*Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.]*

- (1) Radio and television towers 200 feet and under when found to satisfy the requirements of ORS 215.275 "Utility facilities necessary for public service; criteria; mitigating impact of facility" and MCC 33.6100 through 33.6130.
- (2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 33.6175 through 33.6188.
- (3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.
  - (a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and
  - (b) The facility satisfies the requirements of MCC 33.4100 through ~~33.4220~~ 33.4215; 33.6020(A); 33.7000 through ~~33.7070~~ 33.7060; and 33.7450.

***[Technical corrections.]***

(B) Deleted by 2001, Ord. 958 § 1 & Ord. 997).

(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

- (1) Located on the same lot or parcel as the dwelling of the farm operator; and is
- ~~(2) Occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, and whose assistance in the management of the farm use is or will be required by the farm operator.~~
- (2) Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management of the farm use. Qualifying relatives include, child, parent, step-parent, grandchild, grandparent, step-grandparent, brother, sister, sibling, stepsibling, niece, nephew or first cousin.

***[ORS 215.283(1)(e) listed use. (Updated in Chapter 36, West of Sandy River.)]***

***[OAR 660-033-0120 Table 1  
Residential***

\* \* \*

*A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.]*

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 33.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 33.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

*[The last sentence above was added in response to a concern expressed at the Planning Commission work session on April 7, 2003 that there might be some confusion as to whether the foreclosed lot was a separate buildable parcel. The foreclosed lot would not be separately buildable and would have to be recombined back into the parent parcel to regain its recognition as a Lot of Record.]*

*[ORS 215.283(1)(e) listed use. (C)(2) and (3) is in Chapter 36, West of Sandy River.]*

*[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses*

*\* \* \**

*(9)(b) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel requirements under ORS 215.780, if the owner of a dwelling described in OAR 660-033-0130(9) obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.*

*(9)(c) For the purpose of OAR 660-033-0130(9)(b), "foreclosure" means only those foreclosures that do not meet the definition of partition under ORS 92.010(7)(a).]*

*\* \* \**

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (~~1994 dollars~~) in gross annual income from the sale of farm products in the last two years or three of the last five years; and

*[ORS 215.283(1)(f) listed use.]*

*[660-033-0135 Dwellings in Conjunction with Farm Use*

(7) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:  
(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; and  
\* \* \*

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

***[Seasonal farmworker housing was deleted with HB 3171, 2001.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

(7)(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition) [seasonal farmworker housing], there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation; and  
\* \* \*

(11)(b) "Farm or ranch operation" means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.]

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract ~~farm or ranch operation~~;
2. Only gross income from land owned, not leased or rented, shall be counted; and
3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and
4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

***[660-033-0135 Dwellings in Conjunction with Farm Use***

(7)(d) In determining the gross income required by subsection (a) of this section;

- (i) *The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;*
- (ii). *Only gross income from land owned, not leased or rented, shall be counted; and*
- (iii) *Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.*

\* \* \*

*(8) For the purpose of sections (5) or (7) of this rule [\$40,000 and \$80,000 qualifying dwellings] lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Except for Hood River and Wasco counties and Jackson and Klamath counties, when a farm or ranch operation has lots or parcels in both "Western" and "Eastern" Oregon as defined by this division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.]*

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.
2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.
6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and

a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(9)(a) Prior to the final approval for a dwelling authorized by sections (5) and (7) of this rule that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:*

*(i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and*

*(ii) The use any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.*

*(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.*

*(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;*

*(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;*

*(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.]*

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least 160 acres; and

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(d) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; ~~or~~ .

***[Seasonal farmworker housing was deleted with HB 3171, 2001.]***

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(1) On land not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:*

*(a) The parcel on which the dwelling will be located is at least:*

*(A) 160 acres and not designated rangeland; or*

*(B) 320 acres and designated rangeland; or*

*(C) As large as the minimum parcel size if located in a zoning district with an acknowledged minimum parcel size larger than indicated in paragraph (A) or (B) of this subsection.*

*(b) The subject tract is currently employed for farm use, as defined in ORS 215.203;*

*(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;*

*(d) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p)(1999 Edition) [seasonal farmworker housing], there is no other dwelling on the subject tract.]*

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(2) If a county prepares the potential gross sales figures pursuant to section (4) of this rule, the county may determine that on land, not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:*

*\* \* \**

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a



study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 660-33-135(3)]; and

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; and

***[Seasonal farmworker housing was deleted with HB 3171, 2001.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

***(2)(e) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition) [seasonal farmworker housing], there is no other dwelling on the subject tract; and]***

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

***[660-033-0135 Dwellings in Conjunction with Farm Use***

***(2)(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and]***

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this subsection; or

***[The following OAR sections are included only for information purposes and to show why, due to their length, only references to the OAR sections are proposed within the County Code.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

***(3) In order to identify the commercial farm or ranch tracts to be used in section (2) of this rule, the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures prepared by the county pursuant to section (4) of this rule as follows:***

- (a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;*
- (b) Determine for each tract in the study area the number of acres in every land classification from the county assessors data;*
- (c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Commission pursuant to section (4) of this rule. Add these to obtain the potential earning capability for each tract;*
- (d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (3)(c) of this rule;*
- (e) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2)(a) and (b) of this rule.*
- (4) In order to review a farm dwelling pursuant to section (2) of this rule, a county may prepare, subject to review by the Director, a table of the estimated potential gross sales per acre for each assessor land class (irrigated and nonirrigated) required in section (3) of this rule. The Director shall provide assistance and guidance to a county in the preparation of this table. The table shall be prepared as follows:*
  - (a) Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates", or other USDA/Extension Service documentation;*
  - (b) Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows:*
    - (A) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type);*
    - (B) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during the five year period;*
    - (C) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types;*
    - (D) Multiply the combined sales per acre for each crop type identified under paragraph (B) of this subsection by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop;*
    - (E) Add the weighted sales per acre amounts for each indicator crop type identified in paragraph (D) of this subsection. The result provides the combined weighted gross sales per acre.*

(c) Determine the average land rent value for irrigated and nonirrigated land classes in the county's exclusive farm use zones according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308.345;

(d) Determine the percentage of the average land rent value for each specific land rent for each land classification determined in subsection (c) of this section. Adjust the combined weighted sales per acre amount identified in paragraph (b)(E) of this section using the percentage of average land rent (i.e., multiply the weighted average determined in paragraph (4)(b)(E) of this rule by the percent of average land rent value from subsection (4)(c) of this rule). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to each county to be used as explained under subsection (3)(c) of this rule.

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 (~~1994 dollars~~) in gross annual income from the sale of farm products; or

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

(5) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

(A) At least \$40,000 in gross annual income from the sale of farm products; or

\* \* \*

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

***[Seasonal farmworker housing was deleted with HB 3171, 2001.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(5)(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition) [seasonal farmworker housing], there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 or for mixed farm/forest use pursuant to OAR 660-006-0057 owned by the farm or ranch operator or on the farm or ranch operation; and*

*\* \* \**

*(11)(b) "Farm or ranch operation" means all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.]*

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

*[The above number 2. is not in the Oregon Administrative Rules. This language is proposed to address a concern as to how there could more assurance in the validity of "both ends of the transaction" in 1. above.]*

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(5)(d) In determining the gross income required by subsection (a) of this section;*

*(i) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;*

*(ii). Only gross income from land owned, not leased or rented, shall be counted; and*

*(iii) Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.*

*\* \* \**

*(8) For the purpose of sections (5) or (7) of this rule [\$40,000 and \$80,000 qualifying dwellings] lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Except for Hood River and Wasco counties and Jackson and Klamath counties, when a farm or ranch operation has lots or parcels in both "Western" and "Eastern" Oregon as defined by this division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.]*

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(9)(a) Prior to the final approval for a dwelling authorized by sections (5) and (7) of this rule that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:*

*(i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and*

*(ii) The use any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.*

*(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.*

*(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;*

*(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;*

*(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.]*

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross

annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(10) A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined by OAR 660-033-0135(11) if:*

*(a) The subject tract will be employed as a commercial dairy as defined by OAR 660-033-0135(11); and*

*(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and*

*(c) Except as permitted by ORS 215.213(r) and 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract; and*

*(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and*

*(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and*

(f) *The Oregon Department of Agriculture has approved the following:*

(A) *A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and*

(B) *A Producer License for the sale of dairy products under ORS 621.072.*

(11) *As used in this division, the following definitions apply:*

(a) *"Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or*

*(7)(a), whichever is applicable, from the sale of fluid milk; and*

*\* \* \**

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and



(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0135 Dwellings in Conjunction with Farm Use***

*(12) A dwelling may be considered customarily provided in conjunction with farm use if:*

*(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by OAR 660-033-0135(5) or (7) of this rule, whichever is applicable;*

*(b) The subject lot or parcel on which the dwelling will be located is:*

*(A) Currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the gross farm income required by OAR 660-033-0135(5) or (7) of this rule, whichever is applicable; and*

*(B) At least the size of the applicable minimum lot size under OAR 215.780; and*

*(a) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p) (1999 Edition), there is no other dwelling on the subject tract; and*  
*(b) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;*

*(c) In determining the gross income required by subsections (a) and (b)(A) of this section:*

*(A) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and*

*(B) Only gross income from land owned, not leased or rented, shall be counted.*

(E) An ~~a~~ Accessory farm ~~help~~ dwellings, including a mobile or modular home which include all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(1) The accessory farm ~~help~~ dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory ~~help~~ farm dwelling shall be located:

(a) On the same lot or parcel as the ~~dwelling of the principal~~ primary farm dwelling; or

(b) On the same tract as the ~~principal~~ primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the ~~principal~~ primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

(d) ~~An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved; and~~ On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel complies with the applicable gross farm income requirements in MCC 33.2625(E)(4) below; and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

(4) In addition to the requirements in (1) through (3) in this section, ~~The principal~~ the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the ~~principal~~ primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 (~~1994 dollars~~) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the ~~principal~~ primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (~~1994 dollars~~) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

1. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

2. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 33.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 33.2660.

***[ORS 215.283(1)(f) listed use.]***

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(24) Accessory farm dwellings as defined by subsection(24)(e) of this section may be considered customarily provided in conjunction with farm use if:*

*(a) Each accessory farm dwelling meets all the following requirements:*

*(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and*

*(B) The accessory farm dwelling will be located:*

*(i) On the same lot or parcel as the primary farm dwelling; or*  
*(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or*  
*(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules; or*

*(iv) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or*

*(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(5) or (7), whichever is applicable; and*

*(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.*

*(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:*

*(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:*

*(i) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.*

*(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or*

*(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for*

*farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or*

*(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of ORS 215.213(2)(a) or (b). or OAR 660-033-0130(24)(b)(A); or*

*(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and*

*(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and*

*(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and*

*(iii) A Producer License for the sale of dairy products under ORS 621.072.*

*(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in OAR 660-033-0100;*

*(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.*

*(e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.*

\* \* \*

(F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family *heritage tract* dwelling may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

(c) ~~The lot or parcel is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and~~ The lot or parcel was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or
  2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and
- (2) The tract on which the dwelling will be sited does not include a dwelling; and
  - (3) The proposed dwelling is not prohibited by, and will comply with, the requirements of the Comprehensive Plan, land use regulations, and other provisions of law; and
  - (4) The lot or parcel on which the dwelling will be sited does not lie within an area designated by the Comprehensive Plan as a Big Game habitat area; and
  - (5) The lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single parcel when the dwelling is allowed; and
  - (6) The County Assessor shall be notified when the permit is approved.
  - (7) Approval of the dwelling would not:
    - (a) Exceed the facilities and service capabilities of the area; and
    - (b) Materially alter the stability of the overall land use pattern of the area; and
    - (c) Create conditions or circumstances that are found to be contrary to the purpose or intent of the Comprehensive Plan or MCC Chapter 33.
  - (8) For purposes of this subsection, and of dwellings considered under MCC 33.2630 (O) and (P), the following definitions apply:
    - (a) Owner includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985, includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
    - (b) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

***[660-033-0130 Minimum Standards Applicable to the Schedule  
of Permitted and Conditional Uses***

\* \* \*

*(3)(a) A dwelling may be approved if:*

*(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:*

*(i) Since prior to January 1, 1985; or*

*(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.*

\* \* \*

*(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;*

\* \* \*]

~~(G) Seasonal farmworker housing as defined in ORS 197.675 when found to meet the following requirements:~~

~~(1) The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and~~

~~(2) The seasonal farmworker housing is located on the same parcel, lot or tract as the principal farm dwelling which houses the farm operator; and~~

~~(3) The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and~~

~~(4) The seasonal farmworker housing can only be occupied for 273 days per calendar year.~~

***[OAR 660-033-0120 Table 1***

***Residential***

\* \* \*

~~*Seasonal farmworker housing as defined in ORS 197.675.*~~

~~*(ORS 197.675 repealed in 2001. Farmworker housing added to "accessory farm dwellings.")*~~

***[OAR 660-033-0120 Table 1***

***Residential***

\* \* \*

~~*Accessory Farm Dwellings for year-round and seasonal farm workers.]*~~

(H) Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:

- (1) MCC 33.6420 (A) and (B); and
- (2) MCC 33.7450; and
- (3) MCC 33.7000 through MCC ~~33.7070~~ 33.7060; and

***[Technical correction.]***

(4) Minimum Dimensional standards:

- (a) Area: Two acres.
- (b) Width: Two hundred fifty feet.
- (c) Depth: Two hundred fifty feet.
- (d) Setback from all lot lines: One hundred feet.

(I) Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops ~~and or~~ livestock grown on the farm operation, or grown on the farm operation and other farms farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale sales of the incidental items and fees from promotional activity do not make up no more than 25 percent of the total sales of the farm stand; and

(2) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

***[ORS 215.283(1)(r) listed use. (Updated in Chapter 36, West of Sandy River.)]***

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

***(23) A farm stand may be approved if:***

***(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up no more than 25 percent of the total annual sales of the farm stand; and***



*(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.]*

(J) A winery, as described in ORS 215.452.

(K) Signs, pursuant to the provisions of MCC 33.7400 through 33.7505.

(L) Off-street parking and loading pursuant to MCC 33.4100 through ~~33.4220~~ 33.4215.

***[Technical correction.]***

(M) Lot Line Adjustment pursuant to the provisions of MCC 33.2670.

(N) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(O) A facility for the processing of farm crops 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).

***[ORS 215.283(1)(u) listed use. (Updated in Chapter 36, West of Sandy River.)]***

***[660-033-0120 Table 1  
Farm/Forest Resource***

\* \* \*

*A facility for the processing of farm crops.]*

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(28) The farm on which the processing facility is located must provide 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 use. 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. A county shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.]*

(P) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

*[(Updated in Chapter 36, West of Sandy River.)*

***ORS 215.311 Parking log trucks in exclusive farm use zones.***

- (1) The limitations on uses of land in exclusive farm use zones described in ORS 215.283, 215.284 and 215.700 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to log truck parking under this section.*
- (2) The provisions of this section do not affect the eligibility of a zone for special assessment as provided in ORS 308A.050 to 308A.128.*
- (3) Notwithstanding any other provision of law except for health and safety provisions, parking no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local government determines that log truck parking on a lot or parcel will:
  - (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or*
  - (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.]**

**§ 33.2630    CONDITIONAL USES**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 33.2625(O).

(B) Operations conducted for:

- (1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

~~(C) Residential home as defined in ORS 197.660, in existing dwellings.~~

***[197.660 Definitions. As used in ORS 197.660 to 197.670, 215.213, 215.263, 215.283, 215.284 and 443.422:***

***\* \* \****

***(2) "Residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.]***

***[A residential home of five or fewer individuals is defined in the Multnomah County Zoning Code Chapters as one type of "family" and should not be listed as a conditional use.]***

(C) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

***[It is recommended that the above general reference to ORS 195.120 be used until a "parks work program" further fills out the necessary details associated with all park related issues in both the farm and forest zones.]***

***[660-033-0120 Table 1***

***Parks/Public/Quasi-Public***

***Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.]***

***[ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties.***

***\* \* \****

***(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:***

***\* \* \****

***(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.]***

***[195.120 Rules and planning goal amendments for parks required; allowable uses; application of certain land use laws.***

*(1) The Legislative Assembly finds that Oregon's parks are special places and the protection of parks for the use and enjoyment of present and future generations is a matter of statewide concern.*

*(2) The Land Conservation and Development Commission, in cooperation with the State Parks and Recreation Commission and representatives of local government, shall adopt rules and land use planning goal amendments as necessary to provide for:*

*(a) Allowable uses in state and local parks that have adopted master plans;*

*(b) Local government planning necessary to implement state park master plans; and*

*(c) Coordination and dispute resolution among state and local agencies regarding planning and activities in state parks.*

*(3) Rules and goal amendments adopted under subsection (2) of this section shall provide for the following uses in state parks:*

*(a) Campgrounds, day use areas and supporting infrastructure, amenities and accessory visitor service facilities designed to meet the needs of park visitors;*

*(b) Recreational trails and boating facilities;*

*(c) Facilities supporting resource-interpretive and educational activities for park visitors;*

*(d) Park maintenance workshops, staff support facilities and administrative offices;*

*(e) Uses that directly support resource-based outdoor recreation; and*

*(f) Other park uses adopted by the Land Conservation and Development Commission.*

*(4) A local government shall not be required to adopt an exception under ORS 197.732 from a land use planning goal protecting agriculture or forestry resources to authorize a use identified by rule of the Land Conservation and Development Commission under this section in a state or local park.*

*(5) A local government shall comply with the provisions of ORS 215.296 for all uses and activities proposed in or adjacent to an exclusive farm use zone described in the state or local master plan as adopted by the local government and made a part of its comprehensive plan and land use regulation.]*

~~(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds and, parks, playgrounds or community centers owned and operated by a nonprofit community organization.~~

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-value farm lands.

(3) Campgrounds authorized by this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. In addition to the

approval standards in MCC 33.6300 to 33.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, except that electrical service may be provided to yurts. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

***[On high value farm soils these uses are not permitted, however subject to OAR 660-033-0130(18) there are some allowances for existing facilities. On all other soils, this use is subject to OAR 660-033-0130(5) and (19).]***

***[660-033-0120 Table 1***

***Parks/Public/Quasi-Public***

***Private parks, playgrounds, hunting and fishing preserves and campgrounds.]***

**[660-033-0130**

\* \* \*

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

\* \* \*

(18) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

\* \* \*

(19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in section (19) of this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Parks, playgrounds or e Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.

*[Parks has been separated from community centers in State statute and Rule and therefore, in this code amendment the listing for parks is proposed to be moved to (C) above.]*

**[660-033-0120 Table 1**

**Parks/Public/Quasi-Public**

*Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.]*

**[ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties.**

\* \* \*

*(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:*

\* \* \*

*(e) Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.]*

(F) Type B home occupation as provided for in MCC 33.6650 and provided:

(1) That no sale of merchandise is made from the premise; and

(2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line.

A home occupation located on high-value farmland may employ only residents of the home.

(G) A facility for the primary processing of forest products, provided that such facility and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the

existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the permit authorizing such manufactured homes every two years. ~~When the hardships end, the Planning Director shall require the removal of such manufactured homes.~~ Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this section is not eligible for replacement under MCC 33.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

*[This subsection was updated in Chapter 36, West of Sandy River where the use was moved out of the list of Conditional Uses and moved into the list of Review Uses. This move is optional because the use is a "category 2" use found in ORS 215.283(2)(l).]*

**[660-033-0120 Table 1**

**Residential**

\* \* \*

*One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.]*

**[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

\* \* \*

*(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.*

\* \* \*

*(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer*



*system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(u) or 215.283(1)(t). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.*

*\* \* \**

(I) Transmission towers over 200 feet in height, except as follows:

(1) Radio and television towers if found to satisfy the requirements of MCC 33.6100 through 33.6130; and

(2) Wireless communications facilities 200 feet and over are not allowed.

(J) Dog kennels not described in section MCC 33.2625(H). Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

(K) The propagation, cultivation, maintenance and harvesting of aquatic species.

(L) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(M) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(N) ~~Parking of seven or fewer log trucks.~~

***[This use has been moved into the list of Review Uses at MCC 33.2625(P). This change is proposed because the Conditional Use approval criteria are not allowed by ORS 215.311.***

***Chapter 36, West of the Sandy River includes this update.]***

(O) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 33.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 33.2625 (F) (1) through (8); and

(2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

(3) The dwelling will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(3)(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:*

\* \* \*

*(C) A hearings officer of a county determines that:*

*(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or*

*nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.*

\* \* \*

(P) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 33.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 33.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or

(e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

\* \* \*

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:*

*(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;*

*(B) The tract on which the dwelling will be sited is:*

*(i) Identified in OAR 660-033-0020(8)(c) or (d); and*

*(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and*

*(iii) Twenty-one acres or less in size; and*

*(C)(i) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or*

*(ii) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or*

*(D) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:*

*(i) "flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.*

*(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.]*

**§ 33.2655 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

\* \* \*

***[660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses***

\* \* \*

*(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.]*

**§ 33.2665 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES**

(A) Lots less than the 80 acre minimum lot size specified in MCC 33.2660 (A) may be created for uses listed in ~~MCC 33.2625 (A)~~ MCC 33.2630(C) and MCC 33.2630(E) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC 33.2675, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

\* \* \*

***[Oregon Administrative Rules Chapter 660 Division 33  
660-033-0100 Minimum Parcel Size Requirements***

\* \* \*

*(10) Counties may allow the creation of new parcels for nonfarm uses only as authorized by ORS 215.263. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required for the nonfarm dwellings authorized by section (11) of this rule.*

\* \* \*

***Oregon Revised Statutes Chapter 215  
215.263 Land divisions in exclusive farm use zones; criteria for approval.***

\* \* \*

*(3) The governing body of a county or its designee may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213(2) or 215.283(2) if it finds that the parcel for the nonfarm use is not*

*larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.*

\* \* \*

[Utility facilities, as given in MCC 33.2625(A) are not listed among the nonfarm uses in ORS 215.283(2).]

***Oregon Revised Statutes Chapter 215***

***215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties.***

\* \* \*

*(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:*

\* \* \*

*(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.*

*(e) Community centers owned by a governmental agency or a non-profit community organization and operated primarily by and for residents of the local rural community.*

\* \* \*]

\* \* \*

**§ 33.2675 LOT OF RECORD**

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

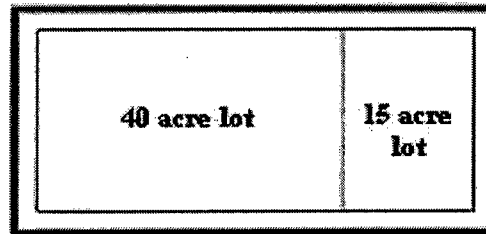
(a) Which were held under the *same ownership* on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

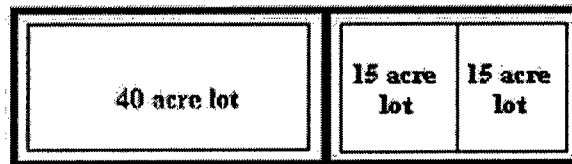
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. An exception to the 19 acre minimum lot size requirement shall occur when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

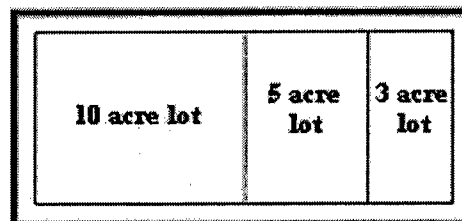
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



**Example 1:**  
**One 55 acre Lot of Record**



**Example 2:**  
**One 40 acre Lot of Record and**  
**one 30 acre Lot of Record**



**Example 3:**  
**One 18 acre Lot of Record**

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

*[This makes clear that the aggregation requirements apply only to farm and forest zones.]*

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

*[Adding this last type of Lot of Record is needed parcels and lots created after the February 19, 1990 date used for the aggregation requirement.]*

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;
- (5) February 20, 1990, lot of record definition amended, Ord. 643;
- (6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

- (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.

\* \* \*

## **MCC CHAPTER 37, ADMINISTRATION AND PROCEDURES**

### **§ 37.0670 RECORDING OF DECISION.**

The County may impose as a condition of final approval of a Type II, Type III, or Type IV decision, the requirement that the applicant record with the County the Notice of Decision. The Notice of Decision



shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense. Any recording required under this section shall be properly signed and executed within 30 days after the decision becomes final; provided, however, that the Planning director may grant reasonable extensions, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision.

***Oregon Revised Statutes Chapter 215***

***215.417. Time to act under certain approved permits; extension.***

*(1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four years.*

\* \* \*

**§ 37.0690 EXPIRATION AND EXTENSION OF A TYPE II OR TYPE III DECISION IN EFU AND CFU ZONES.**

(A) Except for approval of residential developments as specified in (B) below, aA 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 SEC or HDP permits.

(2) The provisions in (B) and (C) shall only apply to residential development approvals 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) ~~(B)~~ 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) ~~(C)~~ 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).

**[660-033-0140**

***Permit Expiration Dates***

*(1) Except as provided for in subsection (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.*

*\* \* \**

*(5)(a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.*

*(b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.*

*(6) For the purposes of subsection (5) of this rule, "residential development" only includes the dwellings provided for under ORS 215.213(1)(t), (3) and (4), 215.283(1)(s), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755(1) and (3).]*

**§ 37.0750 EXPIRATION OF PRIOR LAND USE DECISIONS.**

All land use decisions authorized prior to January 1, 2002 (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(B)(3), which have the expiration timeframes of MCC 37.0690(B) and (C).

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending adoption of an       )  
Ordinance amending MCC Chapters 33, 34, 35, 36, )  
And 37 in an effort to update the standards related    )  
To the farm and forest zoning districts as prescribed)  
In State Administrative Rules and Statutes            )

**RESOLUTION  
PC-03-002**

**WHEREAS,** The Planning Commission is authorized by Multnomah County Code sub-sections 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan; and

**WHEREAS,** Under the State of Oregon Land Use Planning Program regulation of land uses on farm and forest lands are based in State Statute and Administrative Rules, which Counties then administer; and

**WHEREAS,** The State Legislature and the Land Conservation and Development Commission continue to modify and amend those statutes and rules; and

**WHEREAS,** The amendments in the proposed ordinance have been found by the Planning Commission to be needed to update the respective Multnomah County Zoning Code Chapters to comply with state requirements; and

**WHEREAS,** The Planning Commission considered these amendments at a public hearing on May 5, 2003 where all interested persons were given an opportunity to appear and be heard,

**NOW, THEREFORE BE IT RESOLVED** that the proposed Ordinance amending the Zoning Code Chapters is hereby recommended for adoption by the Board of County Commissioners.

Approved this 5th day of May, 2003

  
John Ingle, Chair  
Multnomah County Planning Commission

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-002 A**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 37 to bring the section on expiration and extension of approvals for residential development into compliance with current Oregon Statutes, Rules, and recent Land Use Board of Appeals requirements.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the Oregon land use planning program, regulation of land uses on farm and forest are based upon provisions in the Oregon Revised Statutes and Administrative Rules. Periodically those regulations are changed by the legislature and the Land Conservation and Development Commission which then makes it necessary for counties to make those same changes.
- c. At times, as part of a ruling by the Land Use Board of Appeals, there is clarification on a state regulation that counties must also incorporate into their Codes.
- d. The amendments in the proposed ordinance has been found by the Planning Commission to be needed to comply with farm and forest state regulations.

**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapter 37 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of April, 2004.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. \_\_\_\_\_**

Amending MCC Chapter 33, Land Use Code, West Hills Rural Plan Area, To Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

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

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

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm and forest lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm and forest regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 33.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU) and Commercial Forest Use (CFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the zoning code to comply with changed state statutes and administrative rules.

**Multnomah County Ordains as follows:**

**Section 1. § 33.0005 is 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.

\*\*\*\*\*

(D)(1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to certain standards for approval of a dwelling in those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\*\*\*\*\*

**Section 2. § 33.2010 is amended as follows:**

**§ 33.2010 Definitions**

As used in MCC 33.2000 through 33.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A)~~ *Auxiliary* - For the purposes of MCC 33.2020 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B)~~ *Campground* - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~(C)~~ *Commercial Tree Species* - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D)~~ *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)~~ *Cubic Foot Per Acre* - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F)~~ *Cubic Foot Per Tract Per Year* - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G)~~ *Forest Operation* - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H)~~ *Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(I)~~ *Tract* - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

**Section 3. § 33.2030 is amended as follows:**

**§ 33.2030 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

\*\*\*\*\*

(B) The following Community Service Uses pursuant to the provisions of MCC 33.2045, 33.2105, 33.6000 through 33.6010, and 33.6100 through 33.6230;

(1) Private park and private campground. In addition to the approval standards listed in MCC 33.2030(B) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational



resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

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**Section 4. § 33.2055 is added as follows:**

**§ 33.2055 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 5. § 33.2065 is amended as follows:**

**§ 33.2065 Lots of Exception**

An exception to permit the creation of a lot of less than the minimum specified in MCC 33.2060 (A) may be authorized as provided in (A) or (B) below, subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

(1) ~~(A)~~ The Lot of Record to be divided exceeds the area requirements of MCC 33.2060 (A);

(2) ~~(B)~~ The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(3) ~~(C)~~ The Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(4) ~~(D)~~ The division will create no more than one lot which is less than the minimum area required in MCC 33.2060 (A);

(5) ~~(E)~~ The division complies with the dimensional requirements of MCC 33.2060 (C) through (E); and

(6) ~~(F)~~ The parcel not containing the dwelling is not entitled to a dwelling. ~~(1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. (2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.~~

(B) A parcel that contains two dwellings may be divided provided that:

- (1) Two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (2) Each of the dwellings complies with the criteria for a replacement dwelling under ORS 215.283 (1)(s);
  - (3) One of the parcels created is between two and five acres in size;
  - (4) At least one dwelling is located on each parcel created;
  - (5) The new property line proposed to divide the existing parcel shall be located such that:
    - (a) Forest Practices Setback dimensional requirements in MCC 33.2060(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;
    - (b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas.
  - (6) The development standards for dwellings and structures in MCC 33.2105, the exception standards for secondary fire safety zones in MCC 33.2110, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;
  - (7) The landowner of a lot or parcel created under this subsection provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the County Planning Director indicating that the Comprehensive Plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
- (C) The County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by (A) and (B) above. The record shall be readily available to the public.
- (D) 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.

**Section 6. § 33.2075 is amended as follows:**

**§ 33.2075 Lot of Record**

(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or
- (2) A group of *contiguous* parcels or lots:
  - (a) Which were held under the *same ownership* on February 20, 1990; and
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 7. § 33.2105 is amended as follows:**

**§ 33.2105 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2020 (D), 33.2020 (E) and 33.2025 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

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5. Maintenance of a primary and a secondary fire safety zone is required only ~~to the extent possible within the area of an approved yard (setback to property line)~~ on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 8. § 33.2210 is amended as follows:**

**§ 33.2210 Definitions**

As used in MCC 33.2200 through 33.2310, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A)~~ *Auxiliary* - For the purposes of MCC 33.2220 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B)~~ *Campground* - ~~An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~

~~(C)~~ *Commercial Tree Species* - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D)~~ *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)~~ *Cubic Foot Per Acre* - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F)~~ *Cubic Foot Per Tract Per Year* - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G)~~ *Forest Operation* - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H)~~ *Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(4) ~~Tract~~ - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

**Section 9. § 33.2230 is amended as follows:**

**§ 33.2230 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

\*\*\*\*\*

(D) The following Community Service Uses pursuant to the provisions of MCC 33.2245, 33.2305, 33.6000 through 33.6010, and 33.6100 through 33.6230.

(1) Private park and private Campground. In addition to the approval standards listed in MCC 33.2230(D) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

\*\*\*\*\*

**Section 10. § 33.2240 is amended as follows:**

**§ 33.2240 Template and Heritage Tract Dwellings**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC 33.2275 ~~and have been lawfully created prior to January 25, 1990;~~

\*\*\*\*\*

(3) The tract shall meet the following standards:

(a) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(c) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

\*\*\*\*\*

(i) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2240(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 33.2240(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

\*\*\*\*\*

(B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a tract:

\*\*\*\*\*

(c) That is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. ~~4-~~ The road shall be maintained and either paved or surfaced with rock, ~~and~~ The road shall not be:

1. A U.S. Bureau of Land Management road; or

2. ~~The road shall not be a~~ U.S. Forest Service road ~~or Bureau of Land Management road~~ unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the ~~Department of General Services~~ County Recorder, or were in recordable form prior to January 1, 1985; ~~and~~

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2240(B), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling; and

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, ~~that the tract~~ was acquired and owned continuously by the present owner:

1. Since ~~P~~prior to January 1, 1985; or

2. By devise or by intestate succession ~~by an antecedent of the~~from a person who acquired the lot or parcel since prior to January 1, 1985.

3. For purposes of this subsection, "~~antecedent~~" "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.

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**Section 11. § 33.2255 is added as follows:**

**§ 33.2255 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 12. § 33.2265 is amended as follows:**

**§ 33.2265 Lots of Exception**

An exception to permit the creation of a lot of less than the minimum specified in MCC 33.2260 (A) may be authorized as provided in (A) or (B) below, subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

(1) ~~(A)~~ The Lot of Record to be divided exceeds the area requirements of MCC 33.2260 (A);

(2) ~~(B)~~ The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(3) ~~(C)~~ The Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(4) ~~(D)~~ The division will create no more than one lot which is less than the minimum area required in MCC 33.2260 (A);

(5) ~~(E)~~ The division complies with the dimensional requirements of MCC 33.2260 (C) through (E); and

(6) ~~(F)~~ The parcel not containing the dwelling is not entitled to a dwelling. ~~(1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. (2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be~~



given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

(B) A parcel that contains two dwellings may be divided provided that:

(1) Two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(2) Each of the dwellings complies with the criteria for a replacement dwelling under ORS 215.283 (1)(s);

(3) One of the parcels created is between two and five acres in size;

(4) At least one dwelling is located on each parcel created;

(5) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 33.2260(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas.

(6) The development standards for dwellings and structures in MCC 33.2305, the exception standards for secondary fire safety zones in MCC 33.2310, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

(7) The landowner of a lot or parcel created under this subsection provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the County Planning Director indicating that the Comprehensive Plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(C) The County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by (A) and (B) above. The record shall be readily available to the public.

(D) 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.

**Section 13. § 33.2275 is amended as follows:**

**§33.2275 Lot of Record**

(A) In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

(a) Which were held under the *same ownership* on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 14. § 33.2305 is amended as follows:**

**§ 33.2305 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E) and 33.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

\*\*\*\*\*

5. Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line) on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 15. § 33.2410 is amended as follows:**

**§ 33.2410 Definitions**

As used in MCC 33.2400 through 33.2510, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A)~~ *Auxiliary* - For the purposes of MCC 33.2420 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B)~~ *Campground* - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~(C)~~ *Commercial Tree Species* - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D)~~ *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)~~ *Cubic Foot Per Acre* - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F)~~ *Cubic Foot Per Tract Per Year* - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G)~~ *Forest Operation* - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H)~~ *Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(4) Tract~~ - One or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

**Section 16. § 33.2430 is amended as follows:**

**§ 33.2430 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

\*\*\*\*\*

(B) The following Community Service Uses pursuant to the provisions of MCC 33.2445, 33.2505, 33.6000 through 33.6010, and 33.6100 through 33.6230:

(1) Private park and private Campground. In addition to the approval standards listed in MCC 33.2430(B) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

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**Section 17. § 33.2440 is amended as follows:**

**§ 33.2440 Template Dwellings**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC 33.2475 ~~and have been lawfully created prior to January 25, 1990;~~

\*\*\*\*\*

(3) The tract shall meet the following standards:

(a) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(c) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

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(i) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2440, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of "Date of Creation and Existence" in MCC 33.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 33.2440(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

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**Section 18. § 33.2455 is added as follows:**

**§ 33.2455 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 19. § 33.2465 is amended as follows:**

**§ 33.2465 Lots of Exception**

An exception to permit the creation of a lot of less than the minimum specified in MCC 33.2460 (A) may be authorized as provided in (A) or (B) below, subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

(1) ~~(A)~~ The Lot of Record to be divided exceeds the area requirements of MCC 33.2460 (A);

(2) ~~(B)~~ The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(3) ~~(C)~~ The Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(4) ~~(D)~~ The division will create no more than one lot which is less than the minimum area required in MCC 33.2460 (A);

~~(5) (E)~~ The division complies with the dimensional requirements of MCC 33.2460 (C) through (E); and

~~(6) (F)~~ The parcel not containing the dwelling is not entitled to a dwelling. ~~(1)~~ A condition of approval shall require that covenants, conditions and restrictions ~~stating that requirement which preclude future siting of a dwelling on the parcel~~ shall be recorded with the county Division of Records. ~~(2)~~ The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

(B) A parcel that contains two dwellings may be divided provided that:

(1) Two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(2) Each of the dwellings complies with the criteria for a replacement dwelling under ORS 215.283 (1)(s);

(3) One of the parcels created is between two and five acres in size;

(4) At least one dwelling is located on each parcel created;

(5) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 33.2460(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas.

(6) The development standards for dwellings and structures in MCC 33.2505, the exception standards for secondary fire safety zones in MCC 33.2510, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

(7) The landowner of a lot or parcel created under this subsection provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the County Planning Director indicating that the Comprehensive Plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(C) The County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by (A) and (B) above. The record shall be readily available to the public.

(D) 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.

**Section 20. § 33.2505 is amended as follows:**

**§ 33.2505 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2420 (D) and (E) and 33.2425 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

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5. Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line) on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 21. § 33.2610 is amended as follows:**

**§ 33.2610 Definitions**

As used in MCC 33.2600 through MCC 33.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A) Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~

~~(B) Commercial agricultural enterprise~~ consists of farm operations that will:

- (1) Contribute in a substantial way to the area's existing agricultural economy; and
- (2) Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and the method by which it is marketed shall be considered.



| ~~(C)~~ *Contiguous* refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

| ~~(D)~~ *Farm Operator* means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

| ~~(E)~~ *High-value farm land* means land in a tract composed predominately of soils that are:

(1) Irrigated and classified prime, unique, Class I or Class II; or

(2) Not irrigated and classified prime, unique, Class I or Class II; or

(3) Willamette Valley Soils in Class III or IV including:

(a) Subclassification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;

(b) Subclassification IIIw specifically, Cornelius;

(c) Subclassification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.

Location and the extent of these soils are as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."

The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).

| ~~(F)~~ *Private School* means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

| ~~(G)~~ *Public School* means publicly owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

| ~~(H)~~ *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

| ~~(I)~~ *Suitable for farm use* means land in Class I-IV or "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands".

| ~~(J)~~ *Tract* means one or more contiguous lots or parcels in the same ownership.

**Section 22. § 33.2620 is amended as follows:**

**§ 33.2620      Allowed Uses**

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(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling, the existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

\*\*\*\*\*

(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 33.4100 through MCC ~~33.4220~~33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC ~~33.7070~~33.7060 and MCC 33.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands

(O) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 33.4100 through MCC ~~33.4220~~33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC ~~33.7070~~33.7060 and MCC 33.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

\*\*\*\*\*

(V) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(W) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 33.4100 through MCC 33.4215 (off-street parking), MCC 33.6020(A) (yards), MCC 33.7000 through MCC 33.7060 (design review), and MCC 33.7450 (signs).

(X) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(Y) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(1) A public right of way;

(2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(3) The property to be served by the utility.

(Z) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

## **Section 23. § 33.2625 is amended as follows:**

### **§ 33.2625 Review Uses**

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as follows provided:

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(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and

(b) The facility satisfies the requirements of MCC 33.4100 through ~~33.4220~~33.4215; 33.6020(A); 33.7000 through ~~33.7070~~33.7060; and 33.7450.

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(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

(1) Located on the same lot or parcel as the dwelling of the farm operator; and is

~~(2) Occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, and whose assistance in the management of the farm use is or will be required by the farm operator.~~ Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management of the farm use. Qualifying relatives include, child, parent, step-parent, grandchild, grandparent, step-grandparent, brother, sister, sibling, stepsibling, niece, nephew or first cousin.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 33.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 33.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products in the last two years or three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~5~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation;
2. Only gross income from land owned, not leased or rented, shall be counted; and
3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and
4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.
2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.
6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

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(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; ~~or~~.

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

\*\*\*\*\*

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section; or,

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross

annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or



2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

(E) ~~An accessory farm help dwellings, including a mobile or modular home~~ which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(1) The accessory farm ~~help~~ dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory ~~help~~ farm dwelling shall be located:

(a) On the same lot or parcel as the ~~dwelling of the principal~~ primary farm dwelling; or

(b) On the same tract as the ~~principal~~ primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the ~~principal~~ primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

(d) ~~An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm~~

~~operator. The manufactured dwelling may remain if it is reapproved; and~~ On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel complies with the applicable gross farm income requirements in MCC 33.2625(E)(4) below; and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

(4) In addition to the requirements in (1) through (3) in this section, The principalthe primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

1. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

2. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 33.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 33.2660.

(F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

~~(c) The lot or parcel is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and~~ The lot or parcel was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and

\*\*\*\*\*

(8) For purposes of this subsection, and of dwellings considered under MCC 33.2630 (~~ON~~) and (~~PO~~), the following definitions apply:

~~(a) Owner includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985~~ includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Seasonal farmworker housing as defined in ORS 197.675 when found to meet the following requirements:~~

~~(1) The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and~~

~~(2) The seasonal farmworker housing is located on the same parcel, lot or tract as the principal farm dwelling which houses the farm operator; and~~

~~(3) The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and~~

~~(4) The seasonal farmworker housing can only be occupied for 273 days per calendar year.~~

~~(HG)~~ Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:

\*\*\*\*\*

(3) MCC 33.7000 through MCC ~~33.7070~~33.7060; and

\*\*\*\*\*

~~(HI)~~ Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops ~~and/or~~ livestock grown on the farm operation, or grown on the farm operation and other farms farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the sales annual sale of the incidental items and fees from promotional activity do not make up no more than 25 percent of the total sales of the farm stand; and

\*\*\*\*\*

~~(LK)~~ Off-street parking and loading pursuant to MCC 33.4100 through ~~33.4220~~33.4215.

\*\*\*\*\*

~~(ON)~~ A facility for the processing of farm crops 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).

~~(PO)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

**Section 24. § 33.2630 is amended as follows:**

**§ 33.2630      Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 33.2625(EN).

\*\*\*\*\*

(C) ~~Residential home as defined in ORS 197.660, in existing dwellings~~ Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds and, parks, playgrounds or community centers owned and operated by a nonprofit community organization.

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-high-value farm lands.

(3) Campgrounds authorized by this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. In addition to the approval standards in MCC 33.6300 to 33.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, except that electrical service may be provided to yurts. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) ~~Parks, playgrounds or~~ Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.

\*\*\*\*\*

(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the permit authorizing such manufactured homes every two years. ~~When the hardships end, the Planning Director shall require the removal of such manufactured homes.~~ Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 33.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

\*\*\*\*\*

(J) Dog kennels not described in section MCC 33.2625(HG). Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

\*\*\*\*\*

~~(N) Parking of seven or fewer log trucks.~~

~~(O)~~ Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 33.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 33.2625 (F) (1) through (8); and

(2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

\*\*\*\*\*

(~~PQ~~) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 33.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 33.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or

(e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. “Geographic center of the flag lot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**Section 25. § 33.2655 is added as follows:**

**§ 33.2655 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 26. § 33.2665 is amended as follows:**

**§ 33.2665 Exceptions to Lot Size for Specific Uses**

(A) Lots less than the minimum lot size specified in MCC 33.2660 (A) may be created for uses listed in MCC ~~33.2625 (A)~~ 33.2630(C) and MCC 33.2630 (E) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

\*\*\*\*\*

**Section 27. § 33.2675 is amended as follows:**

**§ 33.2675      Lot of Record**

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or
- (2) A group of contiguous parcels or lots:
  - (a) Which were held under the *same ownership* on February 20, 1990; and
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*



4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(3)(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 28. § 33.6400 is amended as follows:**

**§ 33.6400\*      ANIMAL KEEPING - DOGS**

**§ 33.6400-      Uses**

Except as provided for as a Review Use in the EFU district at MCC 33.2625 (~~HG~~), dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

#1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

\*\*\*This form is a public record\*\*\*

MEETING DATE: May 5, 05

SUBJECT: CFU 5 ZONE

AGENDA NUMBER OR TOPIC: R-10

FOR: X With amendment AGAINST: X THE ABOVE AGENDA ITEM

NAME: PHILIP THOMPSON

ADDRESS: 709 N Tomahawk Is Dr

CITY/STATE/ZIP: Portland Or 97217

PHONE: DAYS: 286-0979 EVES: 286-0979

EMAIL: \_\_\_\_\_ FAX: 286-1024

SPECIFIC ISSUE: "Lawfully created" & "Lawfully existed"

Should be changed to "existed" in conformance w/ State law

WRITTEN TESTIMONY: Submitted as letter

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#2

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

**Please complete this form and return to the Board Clerk**

**\*\*\*This form is a public record\*\*\***

MEETING DATE: May 6, 2004

SUBJECT: R-10

CFU-2 - Illegal Lot after 30 yrs.

AGENDA NUMBER OR TOPIC: \_\_\_\_\_

FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Constance L. Kneitz

ADDRESS: 20127 NW Morgan Rd

CITY/STATE/ZIP: Portland, OR 97231

PHONE: DAYS: 503-621-3859 EVES: SAME

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

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3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-11

**Est. Start Time:** 10:42 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

---

**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of five ordinances that make amendments to five different chapters of the Zoning Code. The amendments update the land use regulations in all the farm and forest zoning districts to include changes that have been made to State Statutes and Administrative Rules. The recommendation from the Planning Commission, the Planning Director, and the Department Director is for approval of the ordinances.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

In Oregon, lands outside of Urban Growth Boundaries which are important for farm and forest resource production are subject to land use protections in State Statute, Statewide Planning Goals, and Administrative Rules that implement the Statutes and Goals. Counties are then required to enact the state regulations within their own Land Use Plans and Zoning Codes.

Recently a pattern has emerged that every two years the state legislature enacts additional changes to the State Statutes governing farm and forest lands. Then, following the enacted statutes, the Land Conservation and Development Commission makes corresponding, and sometimes additional, changes to the Oregon Administrative Rules (OARs).

Most of the proposed amendments are mandated by the state and are actually in effect without adoption into the County regulations. However, their absence from the County Zoning Code makes it difficult for property owners and staff to find all relevant regulations that may apply to farm and forest lands.

The proposed amendments add new land uses to the list of uses allowed in farm and forest zones. Along with the new listing are also new standards for those land uses. New land uses include sites for model aircraft landing, fire service facilities, facilities for processing farm crops, parking of log trucks, farm dwellings on dairy farms, and farm dwellings for farmers that move to a new farm.

In addition, the amendments make changes to standards for some land uses that are presently listed in the farm and forest zones. Those changes include amended standards for approving new dwellings, for approving certain land divisions in the forest zones, for the definition of allowed activities associated with churches, for farm stands, for uses allowed in private and public parks, and for the time period that certain dwelling approvals are valid before they expire.

There are five different ordinances because each of the Rural Plan Areas has its own Zoning Code Chapter and a separate ordinance is required to amend each Chapter.

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

No fiscal impact is expected. The amendments are either mandatory and already in effect, or are clarifications of existing standards.

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

Under the State of Oregon program of land use planning, protection of farm and forest lands for their production value is a major concern. Coupled with the Urban Growth Boundary concept, the result is state mandated restrictions on those lands. This situation leaves some property owners frustrated that counties do not have more flexibility in allowing more development opportunities in those areas.

At the public hearing before the Planning Commission there were generally two concerns expressed. The first involved a need for staff to explain the limits available to local jurisdictions in allowing development in farm and forest areas. The second concern of the property owners that gave testimony was regarding the present approval standards the county has adopted for approval of a certain type of dwelling (a "template dwelling"). The approval standards for a "template dwelling" are one part of the zoning regulations where Multnomah County is more restrictive than the state rules require. (A county may be more restrictive in this standard, but not more lenient.) The standards were adopted as part of the West Hills Rural Area Plan process and are part of the County's Comprehensive Plan.

Staff's response to the second concern is that the proposal before the Board is limited to required code updates and clarifications of existing standards. Other changes that

involve changing Rural Area Plan Policies must be done in a different process. To examining the appropriateness of an approval standard that would increase the number of potential dwellings in the forest zones is a land use issue that should be part of an update of a Rural Area Plan and notice must be given to all property owners and the State Land Conservation and Development Commission of the possibility of making such changes to development approval standards.

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

The proposed amendments have been submitted to the State Department of Land Conservation and Development for their review. No comments have been returned.

A notice of the public hearing before the Planning Commission was mailed to over 1,500 owners of farm and forest zoned properties (in accordance with the requirements of Ballot Measure 56). Fourteen citizens attended the hearing, six citizens gave testimony, and one submitted written comments.

Notice of the Board of County Commissioners hearing will be sent to all those that attended the Planning Commission hearing or submitted testimony.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

**Budget Analyst**

By: \_\_\_\_\_

Date:

**Dept/Countywide HR**

By: \_\_\_\_\_

Date:

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending adoption of an       )  
Ordinance amending MCC Chapters 33, 34, 35, 36, )  
And 37 in an effort to update the standards related    )  
To the farm and forest zoning districts as prescribed)  
In State Administrative Rules and Statutes            )

**RESOLUTION  
PC-03-002**

**WHEREAS,** The Planning Commission is authorized by Multnomah County Code sub-sections 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan; and

**WHEREAS,** Under the State of Oregon Land Use Planning Program regulation of land uses on farm and forest lands are based in State Statute and Administrative Rules, which Counties then administer; and

**WHEREAS,** The State Legislature and the Land Conservation and Development Commission continue to modify and amend those statutes and rules; and

**WHEREAS,** The amendments in the proposed ordinance have been found by the Planning Commission to be needed to update the respective Multnomah County Zoning Code Chapters to comply with state requirements; and

**WHEREAS,** The Planning Commission considered these amendments at a public hearing on May 5, 2003 where all interested persons were given an opportunity to appear and be heard,

**NOW, THEREFORE BE IT RESOLVED** that the proposed Ordinance amending the Zoning Code Chapters is hereby recommended for adoption by the Board of County Commissioners.

Approved this 5th day of May, 2003

  
John Ingle, Chair  
Multnomah County Planning Commission

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-002 A**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 37 to bring the section on expiration and extension of approvals for residential development into compliance with current Oregon Statutes, Rules, and recent Land Use Board of Appeals requirements.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the Oregon land use planning program, regulation of land uses on farm and forest are based upon provisions in the Oregon Revised Statutes and Administrative Rules. Periodically those regulations are changed by the legislature and the Land Conservation and Development Commission which then makes it necessary for counties to make those same changes.
- c. At times, as part of a ruling by the Land Use Board of Appeals, there is clarification on a state regulation that counties must also incorporate into their Codes.
- d. The amendments in the proposed ordinance has been found by the Planning Commission to be needed to comply with farm and forest state regulations.

**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapter 37 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of April, 2004.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. \_\_\_\_\_**

Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, To Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use

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

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

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the zoning code to comply with changed state statutes and administrative rules.

**Multnomah County Ordains as follows:**

**Section 1. § 34.0005 is amended as follows:**

**§ 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.

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(D)(1) **Date of Creation and Existence** – As used in the EFU district and applicable only to certain standards for approval of a dwelling in that district, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record

or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

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**Section 2. § 34.2610 is amended as follows:**

**§ 34.2610 Definitions**

As used in MCC 34.2600 through MCC 34.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A) Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~

~~(B) Commercial agricultural enterprise~~ consists of farm operations that will:

- (1) Contribute in a substantial way to the area's existing agricultural economy; and
- (2) Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and the method by which it is marketed shall be considered.

~~(C) Contiguous~~ refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(D) Farm Operator~~ means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

~~(E) High-value farm land~~ means land in a tract composed predominately of soils that are:

- (1) Irrigated and classified prime, unique, Class I or Class II; or
- (2) Not irrigated and classified prime, unique, Class I or Class II; or
- (3) Willamette Valley Soils in Class III or IV including:
  - (a) Subclassification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;
  - (b) Subclassification IIIw specifically, Cornelius;
  - (c) Subclassification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.

Location and the extent of these soils are as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."

The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).

~~(F)~~ *Private School* means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

~~(G)~~ *Public School* means publicly owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

~~(H)~~ *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(I)~~ *Suitable for farm use* means land in Class I-IV or "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands".

~~(J)~~ *Tract* means one or more contiguous lots or parcels in the same ownership.

**Section 3. § 34.2620 is amended as follows:**

**§ 34.2620 Allowed Uses**

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(L) Alteration, restoration or replacement of a lawfully established *habitable dwelling*.

(1) In the case of a replacement dwelling, the existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(3) As a condition of approval, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting

them from pursuing a claim for relief or cause of action alleging injury from farming practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:

- (1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and
- (2) No new use may be authorized on high value farmland; and
- (3) Must satisfy the requirements of MCC 34.4100 through MCC 34.422034.4215, MCC 34.6020 (A), MCC 34.7000 through MCC ~~34.7070~~34.7060 and MCC 34.7450.
- (4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands

(O) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

- (1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and
- (2) No new use may be authorized on high value farmland; and
- (3) Must satisfy the requirements of MCC 34.4100 through MCC ~~34.4220~~34.4215, MCC 34.6020 (A), MCC 34.7000 through MCC ~~34.7070~~34.7060 and MCC 34.7450.
- (4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.
- (5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

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(V) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(W) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 34.4100 through MCC 34.4215 (off-street parking), MCC 34.6020(A) (yards), MCC 34.7000 through MCC 34.7060 (design review), and MCC 34.7450 (signs).

(X) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(Y) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- (1) A public right of way;
- (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
- (3) The property to be served by the utility.

(Z) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

**Section 4. § 34.2625 is amended as follows:**

**§ 34.2625 Review Uses**

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating ~~electrical~~ power for public use by sale or transmission towers over 200 feet in height ~~as follows~~provided:

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- (3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and

(b) The facility satisfies the requirements of MCC 34.4100 through ~~34.4220~~34.4215; 34.6020(A); 34.7000 through ~~34.7070~~34.7060; and 34.7450.

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(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

- (1) Located on the same lot or parcel as the dwelling of the farm operator; and is

~~(2) Occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, and whose assistance in the management of the farm use is or will be required by the farm operator. Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management~~

of the farm use. Qualifying relatives include, child, parent, step-parent, grandchild, grandparent, step-grandparent, brother, sister, sibling, stepsibling, niece, nephew or first cousin.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 34.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 34.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and

3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

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(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; ~~or~~.

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

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(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section; ~~or~~.

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.



1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the

dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

(E) ~~An~~ Accessory farm ~~help~~ dwellings, including a mobile or modular home which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(1) The accessory farm ~~help~~ dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory ~~help~~ farm dwelling shall be located:

(a) On the same lot or parcel as the ~~dwelling of the principal~~ primary farm dwelling; or

(b) On the same tract as the ~~principal~~ primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the ~~principal~~ primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

(d) ~~An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved; and~~ On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel

complies with the applicable gross farm income requirements in MCC 34.2625(E)(4) below;  
and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

(4) In addition to the requirements in (1) through (3) in this section, ~~The principal~~the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 (~~1994 dollars~~) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (~~1994 dollars~~) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

1. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

2. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 34.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 34.2660.

(F) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

(c) ~~The lot or parcel is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and~~ The lot or parcel was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and

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(8) For purposes of this subsection, and of dwellings considered under MCC 34.2630 (~~ON~~) and (~~PO~~), the following definitions apply:

(a) ~~Owner includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985~~ includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

(G) ~~Seasonal farmworker housing as defined in ORS 197.675 when found to meet the following requirements:~~

(1) ~~The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and~~

(2) ~~The seasonal farmworker housing is located on the same parcel, lot or tract as the principal farm dwelling which houses the farm operator; and~~

(3) ~~The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross~~

~~annual income from the sale of farm products in the last two years or three of the last five years;~~  
~~and~~

~~(4) The seasonal farmworker housing can only be occupied for 273 days per calendar year.~~

~~(HG)~~ Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:

\*\*\*\*\*

(3) MCC 34.7000 through MCC ~~34.7070~~34.7060; and

\*\*\*\*\*

~~(IH)~~ Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops ~~and/or~~ livestock grown on the farm operation, or grown on the farm operation and other farms farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the sales annual sale of the incidental items and fees from promotional activity do not make up no more than 25 percent of the total sales of the farm stand; and

\*\*\*\*\*

~~(LK)~~ Off-street parking and loading pursuant to MCC 34.4100 through ~~34.4220~~34.4215.

\*\*\*\*\*

~~(ON)~~ A facility for the processing of farm crops 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).

~~(PO)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

**Section 5. § 34.2630 is amended as follows:**

**§ 34.2630      Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to ~~34.6345~~34.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 34.2625(EN).

\*\*\*\*\*

(C) ~~Residential home as defined in ORS 197.660, in existing dwellings~~ Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(D) Private parks, playgrounds, hunting and fishing preserves, ~~and campgrounds and parks, playgrounds or community centers owned and operated by a nonprofit community organization.~~

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-high-value farm lands.

(3) ~~Campgrounds authorized by this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations~~ In addition to the approval standards in MCC 34.6300 to 34.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, except that electrical service may be provided to yurts. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) ~~Parks, playgrounds or~~ Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.

\*\*\*\*\*

(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the permit authorizing such manufactured homes every two years. ~~When the hardships end, the Planning Director shall require the removal of such manufactured homes. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes.~~ A temporary residence approved under this subsection is not eligible for replacement under MCC 34.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

\*\*\*\*\*

(J) Dog kennels not described in section MCC 34.2625 (~~HG~~). Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

\*\*\*\*\*

~~(N) Parking of seven or fewer log trucks.~~

~~(ON)~~ Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: MCC 34.6315 Conditional Use Approval Criteria does not apply)



(1) The lot or parcel meets the requirements of MCC 34.2625 (F) (1) through (8); and

(2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

\*\*\*\*\*

(PQ) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: 34.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of 34.2625 (F) (1) through (8); and

(2) The tract on which the dwelling will be sited is:

(a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and

(b) Less than twenty-one acres in size; and

(c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or

(e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**Section 6. § 34.2655 is added as follows:**

**§ 34.2655 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 7. § 34.2665 is amended as follows:**

**§ 34.2665 Exceptions to Lot Size for Specific Uses**

(A) Lots less than the minimum lot size specified in MCC 34.2660 (A) may be created for uses listed in MCC ~~34.2625 (A)~~ 34.2630(C) and MCC 34.2630 (E) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

\*\*\*\*\*

**Section 8. § 34.2675 is amended as follows:**

**§ 34.2675      Lot of Record**

(A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or
- (2) A group of contiguous parcels or lots:
  - (a) Which were held under the *same ownership* on February 20, 1990; and
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(3)(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 9. § 34.6400 is amended as follows:**

**§ 34.6400- Uses**

Except as provided for as a Review Use in the EFU district at MCC 34.2625 (~~HG~~), dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-12

**Est. Start Time:** 10:42 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

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**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 35, Land Use Code, East of Sandy River Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of five ordinances that make amendments to five different chapters of the Zoning Code. The amendments update the land use regulations in all the farm and forest zoning districts to include changes that have been made to State Statutes and Administrative Rules. The recommendation from the Planning Commission, the Planning Director, and the Department Director is for approval of the ordinances.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

In Oregon, lands outside of Urban Growth Boundaries which are important for farm and forest resource production are subject to land use protections in State Statute, Statewide Planning Goals, and Administrative Rules that implement the Statutes and Goals. Counties are then required to enact the state regulations within their own Land Use Plans and Zoning Codes.

Recently a pattern has emerged that every two years the state legislature enacts additional changes to the State Statutes governing farm and forest lands. Then, following the enacted statutes, the Land Conservation and Development Commission makes corresponding, and sometimes additional, changes to the Oregon Administrative Rules (OARs).

Most of the proposed amendments are mandated by the state and are actually in effect without adoption into the County regulations. However, their absence from the County Zoning Code makes it difficult for property owners and staff to find all relevant regulations that may apply to farm and forest lands.

The proposed amendments add new land uses to the list of uses allowed in farm and forest zones. Along with the new listing are also new standards for those land uses. New land uses include sites for model aircraft landing, fire service facilities, facilities for processing farm crops, parking of log trucks, farm dwellings on dairy farms, and farm dwellings for farmers that move to a new farm.

In addition, the amendments make changes to standards for some land uses that are presently listed in the farm and forest zones. Those changes include amended standards for approving new dwellings, for approving certain land divisions in the forest zones, for the definition of allowed activities associated with churches, for farm stands, for uses allowed in private and public parks, and for the time period that certain dwelling approvals are valid before they expire.

There are five different ordinances because each of the Rural Plan Areas has its own Zoning Code Chapter and a separate ordinance is required to amend each Chapter.

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

No fiscal impact is expected. The amendments are either mandatory and already in effect, or are clarifications of existing standards.

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

Under the State of Oregon program of land use planning, protection of farm and forest lands for their production value is a major concern. Coupled with the Urban Growth Boundary concept, the result is state mandated restrictions on those lands. This situation leaves some property owners frustrated that counties do not have more flexibility in allowing more development opportunities in those areas.

At the public hearing before the Planning Commission there were generally two concerns expressed. The first involved a need for staff to explain the limits available to local jurisdictions in allowing development in farm and forest areas. The second concern of the property owners that gave testimony was regarding the present approval standards the county has adopted for approval of a certain type of dwelling (a "template dwelling"). The approval standards for a "template dwelling" are one part of the zoning regulations where Multnomah County is more restrictive than the state rules require. (A county may be more restrictive in this standard, but not more lenient.) The standards were adopted as part of the West Hills Rural Area Plan process and are part of the County's Comprehensive Plan.

Staff's response to the second concern is that the proposal before the Board is limited to required code updates and clarifications of existing standards. Other changes that

involve changing Rural Area Plan Policies must be done in a different process. To examining the appropriateness of an approval standard that would increase the number of potential dwellings in the forest zones is a land use issue that should be part of an update of a Rural Area Plan and notice must be given to all property owners and the State Land Conservation and Development Commission of the possibility of making such changes to development approval standards.

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

The proposed amendments have been submitted to the State Department of Land Conservation and Development for their review. No comments have been returned.

A notice of the public hearing before the Planning Commission was mailed to over 1,500 owners of farm and forest zoned properties (in accordance with the requirements of Ballot Measure 56). Fourteen citizens attended the hearing, six citizens gave testimony, and one submitted written comments.

Notice of the Board of County Commissioners hearing will be sent to all those that attended the Planning Commission hearing or submitted testimony.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

**Budget Analyst**

By: \_\_\_\_\_

Date:

**Dept/Countywide HR**

By: \_\_\_\_\_

Date:

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending adoption of an       )  
Ordinance amending MCC Chapters 33, 34, 35, 36, )  
And 37 in an effort to update the standards related    )  
To the farm and forest zoning districts as prescribed )  
In State Administrative Rules and Statutes            )

**RESOLUTION  
PC-03-002**

**WHEREAS,** The Planning Commission is authorized by Multnomah County Code sub-sections 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan; and

**WHEREAS,** Under the State of Oregon Land Use Planning Program regulation of land uses on farm and forest lands are based in State Statute and Administrative Rules, which Counties then administer; and

**WHEREAS,** The State Legislature and the Land Conservation and Development Commission continue to modify and amend those statutes and rules; and

**WHEREAS,** The amendments in the proposed ordinance have been found by the Planning Commission to be needed to update the respective Multnomah County Zoning Code Chapters to comply with state requirements; and

**WHEREAS,** The Planning Commission considered these amendments at a public hearing on May 5, 2003 where all interested persons were given an opportunity to appear and be heard,

**NOW, THEREFORE BE IT RESOLVED** that the proposed Ordinance amending the Zoning Code Chapters is hereby recommended for adoption by the Board of County Commissioners.

Approved this 5th day of May, 2003

  
John Ingle, Chair  
Multnomah County Planning Commission

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-002 A**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 37 to bring the section on expiration and extension of approvals for residential development into compliance with current Oregon Statutes, Rules, and recent Land Use Board of Appeals requirements.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the Oregon land use planning program, regulation of land uses on farm and forest are based upon provisions in the Oregon Revised Statutes and Administrative Rules. Periodically those regulations are changed by the legislature and the Land Conservation and Development Commission which then makes it necessary for counties to make those same changes.
- c. At times, as part of a ruling by the Land Use Board of Appeals, there is clarification on a state regulation that counties must also incorporate into their Codes.
- d. The amendments in the proposed ordinance has been found by the Planning Commission to be needed to comply with farm and forest state regulations.

**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapter 37 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of April, 2004.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. \_\_\_\_\_**

Amending MCC Chapter 35, Land Use Code, East of Sandy River Rural Plan Area, To Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

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

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

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm and forest lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm and forest regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 35.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU) and Commercial Forest Use (CFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the Zoning Code to comply with changed state statutes and administrative rules.

**Multnomah County Ordains as follows:**

**Section 1. § 35.0005 is amended as follows:**

**§ 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.

\*\*\*\*\*

(D)(1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to certain standards for approval of a dwelling in those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a

Lot of Record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\*\*\*\*\*

**Section 2. § 35.2010 is amended as follows:**

**§ 35.2010 Definitions**

As used in MCC 35.2000 through 35.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A) Auxiliary~~ - For the purposes of MCC 35.2020 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B) Campground~~ - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~(C) Commercial Tree Species~~ - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D) Contiguous~~ - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E) Cubic Foot Per Acre~~ - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F) Cubic Foot Per Tract Per Year~~ - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G) Forest Operation~~ - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H) Same Ownership~~ - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(H) ~~Tract~~ - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

**Section 3. § 35.2030 is amended as follows:**

**§ 35.2030 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

\*\*\*\*\*

(A) The following Community Service Uses pursuant to the applicable provisions of MCC 35.2045, 35.2105, 35.6000 through 35.6010, and 35.6100 through 35.6230:

(1) Private park and private Campground. In addition to the approval standards listed in MCC 35.2030(A) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

\*\*\*\*\*

**Section 4. § 35.2055 is added as follows:**

**§ 35.2055 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 5. § 35.2075 is amended as follows:**

**§ 35.2075 Lot of Record**

(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

(a) Which were held under the *same ownership* on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones

(e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 6. § 35.2105 is amended as follows:**

**§ 35.2105 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 35.2020 (D), 35.2020 (E) and 35.2025 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

\*\*\*\*\*

5. Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line) on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 7. § 35.2210 is amended as follows:**

**§ 35.2210 Definitions**

As used in MCC 35.2200 through 35.2310, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A)~~ *Auxiliary* - For the purposes of MCC 35.2220 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B)~~ *Campground* - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~(C)~~ *Commercial Tree Species* - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D)~~ *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)~~ *Cubic Foot Per Acre* - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F)~~ *Cubic Foot Per Tract Per Year* - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G)~~ *Forest Operation* - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H)~~ *Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(I)~~ *Tract* - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

## **Section 8. § 35.2230 is amended as follows:**

### **§ 35.2230 Conditional Uses**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

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(D) The following Community Service Uses pursuant to the provisions of MCC 35.2245, 35.2305, 35.6000 through 35.6010, and 35.6100 through 35.6230.

(1) Private park and private Campground. In addition to the approval standards listed in MCC 35.2230(D) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by

a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

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**Section 9. § 35.2240 is amended as follows:**

**§ 35.2240 Template and Heritage Tract Dwellings**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC 35.2275 ~~and have been lawfully created prior to January 25, 1990;~~

\*\*\*\*\*

(3) The tract shall meet the following standards:

(a) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(c) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

\*\*\*\*\*



(i) Pursuant to the definition of "Date of Creation and Existence" in MCC 35.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 35.2240(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of "Date of Creation and Existence" in MCC 35.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 35.2240(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

\*\*\*\*\*

(B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a tract:

\*\*\*\*\*

(c) That is located within 1,500 feet of a dedicated public right-of-way that provides or will provide access to the subject tract. ~~1-~~ The road within the public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit and be, as applicable, either paved or surfaced with rock, ~~and~~ The road shall not be:

1. A U.S. Bureau of Land Management road; or

2. ~~The public right of way shall not be a~~ U.S. Forest Service road ~~or Bureau of Land Management road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the~~ United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the ~~Department of General Services~~ County Recorder, or were in recordable form prior to January 1, 1985; ~~and~~

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of "Date of Creation and Existence" in MCC 35.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 35.2240(B), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling; ~~and~~

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, ~~that~~ the tract was acquired and owned continuously by the present owner:

1. ~~Since~~ Prior to January 1, 1985; or

2. By devise or by intestate succession ~~by an antecedent of the~~ from a person who acquired the lot or parcel since prior to January 1, 1985.

3. For purposes of this subsection, ~~"antecedent"~~ "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.

\*\*\*\*\*

**Section 10. § 35.2255 is added as follows:**

**§ 35.2255 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 11. § 35.2265 is amended as follows:**

**§ 35.2265 Lots of Exception**

An exception to permit the creation of a lot of less than the minimum specified in MCC 35.2260 (A) may be authorized as provided in (A) or (B) below, subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

(1) ~~(A)~~ The Lot of Record to be divided exceeds the area requirements of MCC 35.2260 (A);

(2) ~~(B)~~ The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(3) ~~(C)~~ The Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

(4) ~~(D)~~ The division will create no more than one lot which is less than the minimum area required in MCC 35.2260 (A);

(5) ~~(E)~~ The division complies with the dimensional requirements of MCC 35.2260 (C) through (E); and

(6) ~~(F)~~ The parcel not containing the dwelling is not entitled to a dwelling. ~~(1)~~ A condition of approval shall require that covenants, conditions and restrictions stating that requirement which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. ~~(2)~~ The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

(B) A parcel that contains two dwellings may be divided provided that:

(1) Two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(2) Each of the dwellings complies with the criteria for a replacement dwelling under ORS 215.283 (1)(s);

(3) One of the parcels created is between two and five acres in size;

(4) At least one dwelling is located on each parcel created;

(5) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 35.2260(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas.

(6) The development standards for dwellings and structures in MCC 35.2305, the exception standards for secondary fire safety zones in MCC 35.2310, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

(7) The landowner of a lot or parcel created under this subsection provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the County Planning Director indicating that the Comprehensive Plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(C) The County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by (A) and (B) above. The record shall be readily available to the public.

(D) 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.

**Section 12. § 35.2275 is amended as follows:**

**§ 35.2275 Lot of Record**

(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or
- (2) A group of *contiguous* parcels or lots:
  - (a) Which were held under the *same ownership* on February 20, 1990; and
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 13. § 35.2305 is amended as follows:**

**§ 35.2305 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 35.2220 (D) and (E) and 35.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

\*\*\*\*\*

5. Maintenance of a primary and a secondary fire safety zone is required only ~~to the extent possible within the area of an approved yard (setback to property line)~~ on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 14. § 35.2610 is amended as follows:**

**§ 35.2610 Definitions**

As used in MCC 35.2600 through MCC 35.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A) Campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.~~

~~(B)~~ *Commercial agricultural enterprise* consists of farm operations that will:

- (1) Contribute in a substantial way to the area's existing agricultural economy; and
- (2) Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and the method by which it is marketed shall be considered.

~~(C)~~ *Contiguous* refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(D)~~ *Farm Operator* means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

~~(E)~~ *High-value farm land* means land in a tract composed predominately of soils that are:

- (1) Irrigated and classified prime, unique, Class I or Class II; or
- (2) Not irrigated and classified prime, unique, Class I or Class II; or
- (3) Willamette Valley Soils in Class III or IV including:

(a) Subclassification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;

(b) Subclassification IIIw specifically, Cornelius;

(c) Subclassification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.

Location and the extent of these soils are as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."

The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).

~~(F)~~ *Private School* means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

~~(G)~~ *Public School* means publicly owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

~~(H)~~ *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(I)~~ *Suitable for farm use* means land in Class I-IV or "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands".

~~(J)~~ *Tract* means one or more contiguous lots or parcels in the same ownership.

**Section 15. § 35.2620 is amended as follows:**

**§ 35.2620      Allowed Uses**

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(L) Alteration, restoration or replacement of a lawfully established *habitable dwelling*.

(1) In the case of a replacement dwelling, the existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The County Planning Director or the Director's designee shall maintain a record

of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

\*\*\*\*\*

(N) Public or private schools, including all buildings essential to the operation of a school wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 35.4100 through MCC ~~35.4220~~35.4215, MCC 35.6020 (A), MCC 35.7000 through MCC ~~35.7070~~35.7060 and MCC 35.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands

(O) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

(1) Except that no new use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4; and

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 35.4100 through MCC ~~35.4220~~35.4215, MCC 35.6020 (A), MCC 35.7000 through MCC ~~35.7070~~35.7060 and MCC 35.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

\*\*\*\*\*

(V) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(W) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 35.4100 through MCC 35.4215 (off-street parking), MCC 35.6020(A) (yards), MCC 35.7000 through MCC 35.7060 (design review), and MCC 35.7450 (signs).

(X) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(Y) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(1) A public right of way;

(2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(3) The property to be served by the utility.

(Z) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

**Section 16. § 35.2625 is amended as follows:**

**§ 35.2625 Review Uses**

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating ~~electrical~~ power for public use by sale or transmission towers over 200 feet in height ~~as follows~~provided:

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(3) All other utility facilities and transmission towers 200 feet and under in height subject to the following.

(a) The facility satisfies the requirements of ORS 215.275, "Utility facilities necessary for public service; criteria; mitigating impact of facility"; and

(b) The facility satisfies the requirements of MCC 35.4100 through ~~35.4220~~35.4215; 35.6020(A); 35.7000 through ~~35.7070~~35.7060; and 35.7450.

\*\*\*\*\*

(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

(1) Located on the same lot or parcel as the dwelling of the farm operator; and is

(2) ~~Occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, and whose assistance in the management of the farm use is or will be~~



required by the farm operator. Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management of the farm use. Qualifying relatives include, child, parent, step-parent, grandchild, grandparent, step-grandparent, brother, sister, sibling, stepsibling, niece, nephew or first cousin.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 35.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 35.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products in the last two years or three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and

3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and

restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

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(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; ~~or,~~

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

\*\*\*\*\*

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section; ~~or,~~

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the

dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

(E) ~~An~~ Accessory farm ~~help~~ dwellings, including a mobile or modular home which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(1) The accessory farm ~~help~~ dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory ~~help~~ farm dwelling shall be located:

(a) On the same lot or parcel as the ~~dwelling of the principal~~ primary farm dwelling; or

(b) On the same tract as the ~~principal~~ primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the ~~principal~~ primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

(d) ~~An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved; and~~ On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel

complies with the applicable gross farm income requirements in MCC 35.2625(E)(4) below;  
and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

(4) In addition to the requirements in (1) through (3) in this section, ~~The principal~~ the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the ~~principal~~ primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the ~~principal~~ primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

1. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
2. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 35.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 35.2660.

(F) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

(c) ~~The lot or parcel is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and~~ The lot or parcel was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and

\*\*\*\*\*

(8) For purposes of this subsection, and of dwellings considered under MCC 35.2630 (~~ON~~) and (~~PO~~), the following definitions apply:

(a) ~~Owner includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985~~ includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Seasonal farmworker housing as defined in ORS 197.675 when found to meet the following requirements:~~

~~(1) The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and~~

~~(2) The seasonal farmworker housing is located on the same parcel, lot or tract as the principal farm dwelling which houses the farm operator; and~~

~~(3) The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and~~



~~(4) The seasonal farmworker housing can only be occupied for 273 days per calendar year.~~

~~(HG)~~ Facilities wholly within an EFU district used for the breeding, kenneling and training of greyhounds for racing may be maintained, enhanced or expanded except no new facilities may be authorized on high value farmland and provided that the following requirements are satisfied:

\*\*\*\*\*

(3) MCC 35.7000 through MCC ~~35.7070~~35.7060; and

\*\*\*\*\*

~~(IH)~~ Farm Stands when found that:

(1) The structures are designed and used for the sale of farm crops ~~and~~or livestock grown on the farm operation, or grown on the farm operation and other farms farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the sales annual sale of the incidental items and fees from promotional activity do not make up no more than 25 percent of the total sales of the farm stand; and

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~~(LK)~~ Off-street parking and loading pursuant to MCC 35.4100 through ~~35.4220~~35.4215.

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~~(ON)~~ A facility for the processing of farm crops 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).

~~(PO)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

**Section 17. § 35.2630 is amended as follows:**

**§ 35.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 35.6300 to 35.6335:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 35.2625(O).

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(C) ~~Residential home as defined in ORS 197.660, in existing dwellings~~ Public parks and playgrounds.  
A public park may be established consistent with the provisions of ORS 195.120.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds and, parks,  
playgrounds or community centers owned and operated by a nonprofit community organization.

(1) Existing facilities wholly within an EFU district may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-high-value farm lands.

(3) Campgrounds authorized by this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. In addition to the approval standards in MCC 35.6300 to 35.6335, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, except that electrical service may be provided to yurts. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Parks, playgrounds or eCommunity centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.

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(H) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the permit authorizing such manufactured homes every two years. ~~When the hardships end, the Planning Director shall require the removal of such manufactured homes.~~ Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this subsection is not eligible for replacement under MCC 35.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

A finding shall be made that the health hardship manufactured dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

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(J) Dog kennels not described in section MCC 35.2625 (HG). Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

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~~(N) Parking of seven or fewer log trucks.~~

~~(N)~~ Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: MCC 35.6315 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 35.2625 (F) (1) through (8); and

(2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion

asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

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(~~PQ~~) Notwithstanding the *same ownership* grouping requirements of the Lot of Record section, a single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

(Note: 35.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of 35.2625 (F) (1) through (8); and
- (2) The tract on which the dwelling will be sited is:
  - (a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and
  - (b) Less than twenty-one acres in size; and
  - (c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
  - (d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or
  - (e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:
    1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and
    2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**Section 18. § 35.2655 is added to read as follows:**

**§ 35.2655 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 19. § 35.2665 is amended as follows:**

**§ 35.2665 Exceptions to Lot Size for Specific Uses**

(A) Lots less than the minimum lot size specified in MCC 35.2660 (A) may be created for uses listed in MCC ~~35.2625 (A)~~ 35.2630(C) and MCC 35.2630 (E) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

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**Section 20. § 35.2675 is amended as follows:**

**§ 35.2675 Lot of Record**

(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or
- (2) A group of contiguous parcels or lots:
  - (a) Which were held under the *same ownership* on February 20, 1990; and
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

~~(3)~~(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

\*\*\*\*\*

**Section 21. § 35.6400 is amended as follows:**

**§ 35.6400- Uses**

Except as provided for as a Review Use in the EFU district at MCC 35.2625 (HG), dog kennels, boarding, breeding, keeping or training places or the keeping or raising of four or more dogs over six months of age may be permitted only upon the approval of the approval authority as a conditional use. Such approval shall not include animal hospitals or veterinary clinics as conditional uses.

FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

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**MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP**

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**Please complete this form and return to the Board Clerk**

**\*\*\*This form is a public record\*\*\***

MEETING DATE: May 6, 2004

SUBJECT: Dwelling on high-value farmland

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AGENDA NUMBER OR TOPIC: R-12

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FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_ THE ABOVE AGENDA ITEM

NAME: Don Sturm

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ADDRESS: PO Box 245 us. 28519 SE Stebin

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CITY/STATE/ZIP: Corbett OR 97019 Troutdale OR 97060

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PHONE: DAYS: 503-706-3672 EVES: 503-492-0501

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EMAIL: \_\_\_\_\_ FAX: 503-695-2743

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SPECIFIC ISSUE: \_\_\_\_\_

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WRITTEN TESTIMONY: \_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-13

**Est. Start Time:** 10:42 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

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**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 36, Land Use Code, West of Sandy River Rural Plan Area, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

---

**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of five ordinances that make amendments to five different chapters of the Zoning Code. The amendments update the land use regulations in all the farm and forest zoning districts to include changes that have been made to State Statutes and Administrative Rules. The recommendation from the Planning Commission, the Planning Director, and the Department Director is for approval of the ordinances.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

In Oregon, lands outside of Urban Growth Boundaries which are important for farm and forest resource production are subject to land use protections in State Statute, Statewide Planning Goals, and Administrative Rules that implement the Statutes and Goals. Counties are then required to enact the state regulations within their own Land Use Plans and Zoning Codes.



Recently a pattern has emerged that every two years the state legislature enacts additional changes to the State Statutes governing farm and forest lands. Then, following the enacted statutes, the Land Conservation and Development Commission makes corresponding, and sometimes additional, changes to the Oregon Administrative Rules (OARs).

Most of the proposed amendments are mandated by the state and are actually in effect without adoption into the County regulations. However, their absence from the County Zoning Code makes it difficult for property owners and staff to find all relevant regulations that may apply to farm and forest lands.

The proposed amendments add new land uses to the list of uses allowed in farm and forest zones. Along with the new listing are also new standards for those land uses. New land uses include sites for model aircraft landing, fire service facilities, facilities for processing farm crops, parking of log trucks, farm dwellings on dairy farms, and farm dwellings for farmers that move to a new farm.

In addition, the amendments make changes to standards for some land uses that are presently listed in the farm and forest zones. Those changes include amended standards for approving new dwellings, for approving certain land divisions in the forest zones, for the definition of allowed activities associated with churches, for farm stands, for uses allowed in private and public parks, and for the time period that certain dwelling approvals are valid before they expire.

There are five different ordinances because each of the Rural Plan Areas has its own Zoning Code Chapter and a separate ordinance is required to amend each Chapter.

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

No fiscal impact is expected. The amendments are either mandatory and already in effect, or are clarifications of existing standards.

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

Under the State of Oregon program of land use planning, protection of farm and forest lands for their production value is a major concern. Coupled with the Urban Growth Boundary concept, the result is state mandated restrictions on those lands. This situation leaves some property owners frustrated that counties do not have more flexibility in allowing more development opportunities in those areas.

At the public hearing before the Planning Commission there were generally two concerns expressed. The first involved a need for staff to explain the limits available to local jurisdictions in allowing development in farm and forest areas. The second concern of the property owners that gave testimony was regarding the present approval standards the county has adopted for approval of a certain type of dwelling (a "template dwelling"). The approval standards for a "template dwelling" are one part of the zoning regulations where Multnomah County is more restrictive than the state rules require. (A county may be more restrictive in this standard, but not more lenient.) The standards were adopted as part of the West Hills Rural Area Plan process and are part of the County's Comprehensive Plan.

Staff's response to the second concern is that the proposal before the Board is limited to required code updates and clarifications of existing standards. Other changes that

involve changing Rural Area Plan Policies must be done in a different process. To examining the appropriateness of an approval standard that would increase the number of potential dwellings in the forest zones is a land use issue that should be part of an update of a Rural Area Plan and notice must be given to all property owners and the State Land Conservation and Development Commission of the possibility of making such changes to development approval standards.

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

The proposed amendments have been submitted to the State Department of Land Conservation and Development for their review. No comments have been returned.

A notice of the public hearing before the Planning Commission was mailed to over 1,500 owners of farm and forest zoned properties (in accordance with the requirements of Ballot Measure 56). Fourteen citizens attended the hearing, six citizens gave testimony, and one submitted written comments.

Notice of the Board of County Commissioners hearing will be sent to all those that attended the Planning Commission hearing or submitted testimony.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

**Budget Analyst**

By: \_\_\_\_\_

Date:

**Dept/Countywide HR**

By: \_\_\_\_\_

Date:

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending adoption of an       )  
Ordinance amending MCC Chapters 33, 34, 35, 36, )  
And 37 in an effort to update the standards related   )  
To the farm and forest zoning districts as prescribed)  
In State Administrative Rules and Statutes           )

**RESOLUTION  
PC-03-002**

**WHEREAS,** The Planning Commission is authorized by Multnomah County Code sub-sections 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan; and

**WHEREAS,** Under the State of Oregon Land Use Planning Program regulation of land uses on farm and forest lands are based in State Statute and Administrative Rules, which Counties then administer; and

**WHEREAS,** The State Legislature and the Land Conservation and Development Commission continue to modify and amend those statutes and rules; and

**WHEREAS,** The amendments in the proposed ordinance have been found by the Planning Commission to be needed to update the respective Multnomah County Zoning Code Chapters to comply with state requirements; and

**WHEREAS,** The Planning Commission considered these amendments at a public hearing on May 5, 2003 where all interested persons were given an opportunity to appear and be heard,

**NOW, THEREFORE BE IT RESOLVED** that the proposed Ordinance amending the Zoning Code Chapters is hereby recommended for adoption by the Board of County Commissioners.

Approved this 5th day of May, 2003

  
John Ingle, Chair  
Multnomah County Planning Commission

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-002 A**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 37 to bring the section on expiration and extension of approvals for residential development into compliance with current Oregon Statutes, Rules, and recent Land Use Board of Appeals requirements.

**The Planning Commission Finds:**


- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the Oregon land use planning program, regulation of land uses on farm and forest are based upon provisions in the Oregon Revised Statutes and Administrative Rules. Periodically those regulations are changed by the legislature and the Land Conservation and Development Commission which then makes it necessary for counties to make those same changes.
- c. At times, as part of a ruling by the Land Use Board of Appeals, there is clarification on a state regulation that counties must also incorporate into their Codes.
- d. The amendments in the proposed ordinance has been found by the Planning Commission to be needed to comply with farm and forest state regulations.

**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapter 37 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of April, 2004.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO.

Amending MCC Chapter 36, Land Use Code, West of Sandy River Rural Plan Area, To Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding Land Uses on Lands Zoned Exclusive Farm Use and Commercial Forest Use

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

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

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm and forest lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm and forest regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 36.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU) and Commercial Forest Use (CFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the zoning code to comply with changed state statutes and administrative rules.

**Multnomah County Ordains as follows:**

**Section 1. § 36.0005 is amended as follows:**

**§ 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.

\*\*\*\*\*

(D)(1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to certain standards for approval of a dwelling in those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a

Lot of Record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\*\*\*\*\*

**Section 2. § 36.2010 is amended as follows:**

**§ 36.2010 DEFINITIONS**

As used in MCC 36.2000 through 36.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~(A)~~ **Auxiliary** - For the purposes of MCC 36.2020 (A) (2) to (3), the use or alteration of a structure or land which provides temporary help, or is directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

~~(B)~~ **Campground** - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~(C)~~ **Commercial Tree Species** - Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

~~(D)~~ **Contiguous** - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)~~ **Cubic Foot Per Acre** - The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(F)~~ **Cubic Foot Per Tract Per Year** - The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

~~(G)~~ **Forest Operation** - Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

~~(H)~~ **Same Ownership** - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(4) Tract~~ - One or more contiguous Lots of Record in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

**Section 3. § 36.2030 is amended as follows:**

**§ 36.2030      CONDITIONAL USES**

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

\*\*\*\*\*

(D) The following Community Service Uses pursuant to the applicable provisions of MCC 36.2045, 36.2105, 36.6000 through 36.6020. The applicable criteria of 36.6010 shall be limited to (A) through (H) for uses in this section.

(1) Private park and private Campground. In addition to the approval standards listed in MCC 36.2030(D) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

\*\*\*\*\*

(9) State and Local Parks, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035;

3. A "State Park" is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

\*\*\*\*\*

**Section 4. § 36.2040 is amended as follows:**

**§ 36.2040 TEMPLATE AND HERITAGE TRACT DWELLINGS.**

(A) A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the lot of record standards of MCC ~~35.2075~~36.2075 ~~and have been lawfully created prior to January 25, 1990;~~

(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with the development standards of MCC ~~35.2105~~36.2105 with minimum yards of 60 feet to the centerline of any adjacent public or private road serving two or more properties and 130 feet to all other property lines. Exceptions to this standard shall be pursuant to MCC 36.2110, as applicable;

(3) The tract shall meet the following standards:

(a) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and



1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(c) ~~The tract shall be~~ If the tract is predominantly composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

\*\*\*\*\*

(i) Pursuant to the definition of "Date of Creation and Existence" in MCC 36.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 36.2040(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of "Date of Creation and Existence" in MCC 36.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 36.2040(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

\*\*\*\*\*

(B) A heritage tract dwelling may be sited, subject to the following:

(1) On a tract:

\*\*\*\*\*

(c) That is located within 1,500 feet of a dedicated public right-of-way that provides or will provide access to the subject tract. ~~4-The road within the public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit and be, as applicable, either paved or surfaced with rock, and~~ The road shall not be:

1. A U.S. Bureau of Land Management road; or

2. ~~The public right of way shall not be a~~ A U.S. Forest Service road or Bureau of Land Management road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the ~~Department of General Services~~ County Recorder, or were in recordable form prior to January 1, 1985; ~~and~~

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of "Date of Creation and Existence" in MCC 36.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 36.2040(B), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling; and

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, ~~that~~ the tract was acquired and owned continuously by the present owner:

1. Since ~~P~~prior to January 1, 1985; or

2. By devise or by intestate succession ~~by an antecedent of the~~ from a person who acquired the lot or parcel since prior to January 1, 1985.

3. For purposes of this subsection, ~~"antecedent"~~ "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.

\*\*\*\*\*

**Section 5. § 36.2055 is added as follows:**

**§ 36.2055 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 6. § 36.2065 is amended as follows:**

**§ 36.2265 LOTS OF EXCEPTION**

An exception to permit the creation of a lot of less than the minimum 80 acre parcel size for new parcels may be authorized as provided in (A) or (B) below and subject to the following:

\*\*\*\*\*

(B) A parcel that contains two dwellings may be divided provided that:

\*\*\*\*\*

(4) At least one dwelling is located on each lot or parcel created under this paragraph;~~and~~

(5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Multnomah County Recorder. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use;

(6) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 36.2060(C) are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas; and

(7) The development standards for dwellings and structures in MCC 36.2105, the exception standards for secondary fire safety zones in MCC 36.2110, and the land division requirement that "the tentative plan complies with the area and dimensional requirements of the underlying zoning district" shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

\*\*\*\*\*

**Section 7. § 36.2075 is amended as follows:**

**§ 36.2075 LOT OF RECORD**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4)(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

\*\*\*\*\*

**Section 8. § 36.2105 is amended as follows:**

**§ 36.2105 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 36.2020 (D) and 36.2025 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the requirements of this section. Application of these requirements shall be processed pursuant to the provisions for Type II or Type III decisions as applicable.

(A) The dwelling or structure shall be located such that:

\*\*\*\*\*

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

\*\*\*\*\*

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

\*\*\*\*\*

5. Maintenance of a primary and a secondary fire safety zone is required only ~~to the extent possible within the area of an approved yard (setback to property line)~~ on land surrounding the dwelling that is owned or controlled by the home owner.

\*\*\*\*\*

**Section 9. § 36.2620 is amended as follows:**

**§ 36.2620 ALLOWED USES**

\*\*\*\*\*

(O) Churches and cemeteries in conjunction with churches, consistent with ORS 441, wholly within an EFU district may be maintained, enhanced or expanded:

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, child care and meal programs, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

\*\*\*\*\*

(V) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 36.4100 through 36.4215 (off-street parking), MCC 36.6020(A) (yards), MCC 36.7000 through MCC 36.7060 (design review), and MCC 36.7450 (signs).

\*\*\*\*\*

(Z) Land application of reclaimed water, agricultural or industrial process water or biosolids.

Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.

**Section 10. § 36.2625 is amended as follows:**

**§ 36.2625 REVIEW USES**

\*\*\*\*\*

(C) A farm help dwelling for a relative on real property used for farm use if the dwelling is:

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(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 36.2660, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. However, pursuant to MCC 36.2675(D), the area of land with the homesite created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~tract~~ farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and

3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

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(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract; ~~or,~~

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

\*\*\*\*\*

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section; ~~or,~~

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on ~~the subject tract~~ lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. ~~The~~ The cost of purchased livestock shall be deducted from the total gross income attributed to the ~~farm~~ farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.



6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(5) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and

(b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

(6) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

(E) ~~An accessory farm help~~ dwellings, ~~including a mobile or modular home~~ which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:

(1) The accessory farm ~~help~~ dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory ~~help~~ farm dwelling shall be located:

(a) On the same lot or parcel as the ~~dwelling of the principal~~ primary farm dwelling; or

(b) On the same tract as the ~~principal~~primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the ~~principal~~primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and
2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and
3. The manufactured dwelling may remain if it is reapproved; or

~~(d) An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved; and~~ On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel complies with the applicable gross farm income requirements in MCC 36.2625(E)(4) below; and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

(4) In addition to the requirements in (1) through (3) in this section, The ~~principal~~the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

1. At least \$40,000 ~~(1994 dollars)~~ in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income,

the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the ~~principal~~primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (~~1994 dollars~~) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(11); and

1. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

2. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 36.2625 (D), a parcel may be created consistent with the minimum parcel size requirements in MCC 36.2660.

(F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

(a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

(b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

(c) ~~The lot or parcel is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and~~ The lot or parcel was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and

\*\*\*\*\*

(8) For purposes of this subsection, and of dwellings considered under MCC 36.2630 (J) and (K), the following definitions apply:

~~(a) Owner includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985 includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.~~

(b) Date of Creation and Existence. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

~~(G) Seasonal farmworker housing as defined in ORS 197.675 when found to meet the following requirements:~~

~~(1) The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and~~

~~(2) The seasonal farmworker housing is located on the same parcel, lot or tract as the principal farm dwelling which houses the farm operator; and~~

~~(3) The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and~~

~~(4) The seasonal farmworker housing can only be occupied for 273 days per calendar year.~~

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~~(ON)~~ A facility for the processing of farm crops 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).

~~(PO)~~ One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. The Planning Director shall review the

permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the Planning Director shall require the removal of such manufactured homes. A temporary residence approved under this section is not eligible for replacement under MCC 36.2620(J), (L), and (M). Oregon Department of Environmental Quality review and removal requirements also apply. As used in this subsection "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(1) The health hardship will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(b) Significantly increase the cost of accepted farm or forest practices on ~~surrounding~~ lands devoted to farm or forest use; ~~and~~.

~~(2) As a condition of approval, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices for which no action or claim is allowed under ORS 30.936 or 30.937.~~

~~(Q)~~ Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; ~~and~~.

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**Section 11. § 36.2630 is amended as follows:**

**§ 36.2630      CONDITIONAL USES**

The following uses may be permitted when approved by the approval authority to satisfy the applicable provisions in MCC 36.6300 to 36.6335 or the criteria listed for the use:

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(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to 36.2625(~~Q~~N) above. Uses under this provision shall be subject to the approval criteria in MCC 36.6315(1) through (7).

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(G) Dog kennels not described in section MCC 36.2625 (~~H~~G). Existing facilities wholly within an EFU district may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

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(J) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 36.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of MCC 36.2625 (F) (1) through (8); and
- (2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

\*\*\*\*\*

(K) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: 36.6315 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of 36.2625 (F) (1) through (8); and
- (2) The tract on which the dwelling will be sited is:
  - (a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and
  - (b) Less than twenty-one acres in size; and
  - (c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
  - (d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or
  - (e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that

provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:

1. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and

2. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

**Section 12. § 36.2655 is added to read as follows:**

**§ 36.2655 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices**

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

**Section 13. § 36.2665 is amended as follows:**

**§ 36.2665 Exceptions to Lot Size for Specific Uses**

(A) Lots less than the minimum lot size specified in MCC 36.2660 (A) may be created for uses listed in ~~MCC 36.2625 (A)~~ and MCC 36.2630 (C) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

\*\*\*\*\*

**Section 14. § 36.2675 is amended as follows:**

**§ 36.2675 LOT OF RECORD**

(A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:



(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

\*\*\*\*\*

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

~~(3)~~(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

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FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Sandra N. Duffy, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-14

**Est. Start Time:** 10:42 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

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**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 37, Land Use Code, Administration and Procedures, to Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding the Expiration of Certain Land Use Approvals on Lands Zoned Exclusive Farm Use and Commercial Forest Use

**NOTE:** If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide clearly written title.

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**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of five ordinances that make amendments to five different chapters of the Zoning Code. The amendments update the land use regulations in all the farm and forest zoning districts to include changes that have been made to State Statutes and Administrative Rules. The recommendation from the Planning Commission, the Planning Director, and the Department Director is for approval of the ordinances.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

In Oregon, lands outside of Urban Growth Boundaries which are important for farm and forest resource production are subject to land use protections in State Statute, Statewide Planning Goals, and Administrative Rules that implement the Statutes and Goals. Counties are then required to enact the state regulations within their own Land Use Plans and Zoning Codes.

Recently a pattern has emerged that every two years the state legislature enacts additional changes to the State Statutes governing farm and forest lands. Then, following the enacted statutes, the Land Conservation and Development Commission makes corresponding, and sometimes additional, changes to the Oregon Administrative Rules (OARs).

Most of the proposed amendments are mandated by the state and are actually in effect without adoption into the County regulations. However, their absence from the County Zoning Code makes it difficult for property owners and staff to find all relevant regulations that may apply to farm and forest lands.

The proposed amendments add new land uses to the list of uses allowed in farm and forest zones. Along with the new listing are also new standards for those land uses. New land uses include sites for model aircraft landing, fire service facilities, facilities for processing farm crops, parking of log trucks, farm dwellings on dairy farms, and farm dwellings for farmers that move to a new farm.

In addition, the amendments make changes to standards for some land uses that are presently listed in the farm and forest zones. Those changes include amended standards for approving new dwellings, for approving certain land divisions in the forest zones, for the definition of allowed activities associated with churches, for farm stands, for uses allowed in private and public parks, and for the time period that certain dwelling approvals are valid before they expire.

There are five different ordinances because each of the Rural Plan Areas has its own Zoning Code Chapter and a separate ordinance is required to amend each Chapter.

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

No fiscal impact is expected. The amendments are either mandatory and already in effect, or are clarifications of existing standards.

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

Under the State of Oregon program of land use planning, protection of farm and forest lands for their production value is a major concern. Coupled with the Urban Growth Boundary concept, the result is state mandated restrictions on those lands. This situation leaves some property owners frustrated that counties do not have more flexibility in allowing more development opportunities in those areas.

At the public hearing before the Planning Commission there were generally two concerns expressed. The first involved a need for staff to explain the limits available to local jurisdictions in allowing development in farm and forest areas. The second concern of the property owners that gave testimony was regarding the present approval standards the county has adopted for approval of a certain type of dwelling (a "template dwelling"). The approval standards for a "template dwelling" are one part of the zoning regulations where Multnomah County is more restrictive than the state rules require. (A county may be more restrictive in this standard, but not more lenient.) The standards were adopted as part of the West Hills Rural Area Plan process and are part of the County's Comprehensive Plan.

Staff's response to the second concern is that the proposal before the Board is limited to required code updates and clarifications of existing standards. Other changes that

involve changing Rural Area Plan Policies must be done in a different process. To examining the appropriateness of an approval standard that would increase the number of potential dwellings in the forest zones is a land use issue that should be part of an update of a Rural Area Plan and notice must be given to all property owners and the State Land Conservation and Development Commission of the possibility of making such changes to development approval standards.

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

The proposed amendments have been submitted to the State Department of Land Conservation and Development for their review. No comments have been returned.

A notice of the public hearing before the Planning Commission was mailed to over 1,500 owners of farm and forest zoned properties (in accordance with the requirements of Ballot Measure 56). Fourteen citizens attended the hearing, six citizens gave testimony, and one submitted written comments.

Notice of the Board of County Commissioners hearing will be sent to all those that attended the Planning Commission hearing or submitted testimony.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

**Budget Analyst**

By: \_\_\_\_\_

Date:

**Dept/Countywide HR**

By: \_\_\_\_\_

Date:

**DECISION OF THE  
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of recommending adoption of an       )  
Ordinance amending MCC Chapters 33, 34, 35, 36, )  
And 37 in an effort to update the standards related    )  
To the farm and forest zoning districts as prescribed)  
In State Administrative Rules and Statutes            )

**RESOLUTION  
PC-03-002**

**WHEREAS,** The Planning Commission is authorized by Multnomah County Code subsections 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan; and

**WHEREAS,** Under the State of Oregon Land Use Planning Program regulation of land uses on farm and forest lands are based in State Statute and Administrative Rules, which Counties then administer; and

**WHEREAS,** The State Legislature and the Land Conservation and Development Commission continue to modify and amend those statutes and rules; and

**WHEREAS,** The amendments in the proposed ordinance have been found by the Planning Commission to be needed to update the respective Multnomah County Zoning Code Chapters to comply with state requirements; and

**WHEREAS,** The Planning Commission considered these amendments at a public hearing on May 5, 2003 where all interested persons were given an opportunity to appear and be heard,

**NOW, THEREFORE BE IT RESOLVED** that the proposed Ordinance amending the Zoning Code Chapters is hereby recommended for adoption by the Board of County Commissioners.

Approved this 5th day of May, 2003

  
John Ingle, Chair  
Multnomah County Planning Commission

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-002 A**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 37 to bring the section on expiration and extension of approvals for residential development into compliance with current Oregon Statutes, Rules, and recent Land Use Board of Appeals requirements.

**The Planning Commission Finds:**


- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. Under the Oregon land use planning program, regulation of land uses on farm and forest are based upon provisions in the Oregon Revised Statutes and Administrative Rules. Periodically those regulations are changed by the legislature and the Land Conservation and Development Commission which then makes it necessary for counties to make those same changes.
- c. At times, as part of a ruling by the Land Use Board of Appeals, there is clarification on a state regulation that counties must also incorporate into their Codes.
- d. The amendments in the proposed ordinance has been found by the Planning Commission to be needed to comply with farm and forest state regulations.

**The Planning Commission Resolves:**

The proposed Ordinance amending MCC Chapter 37 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 5th day of April, 2004.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

  
John Ingle, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO.**

Amending MCC Chapter 37, Land Use Code, Administration and Procedures, To Update the Zoning Code to Include Changes to the Oregon Statutes and Administrative Rules Regarding the Expiration of Certain Land Use Approvals on Lands Zoned Exclusive Farm Use and Commercial Forest Use

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

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

- a. Under the Oregon Statewide Land Use Planning Program, protection of farm and forest lands for resource use is based upon regulation of land uses found in state statute and Oregon Administrative Rules. Multnomah County then administers those farm and forest regulations from the County's own adopted zoning code.
- b. Periodically, the State Legislature and the State Land Conservation and Development Commission modify and amend the statutes and rules. Thereafter, mandated sections of those amended state regulations are required to be administered by counties directly from the state codes if they are not adopted into county codes. Timely integration of those state amendments into the County zoning code is desirable for land owners to have available all land use regulations that apply to their property in one set of regulations.
- c. The Planning Commission is authorized by MCC 33.0140, 34.0140, 35.0140, 36.0140 and by ORS 215.110, to recommend to the Board of County Commissioners the adoption of ordinances to implement the Multnomah County Comprehensive Plan. The Planning Commission held a public hearing on the amendments contained in this ordinance where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was mailed to all property owners of lands zoned Exclusive Farm Use (EFU) and Commercial Forest Use (CFU). At that hearing the Planning Commission approved the code amendments for recommendation to the Board.
- d. The amendments in this ordinance are found by the Board to be needed updates to the zoning code to comply with changed state statutes and administrative rules.

**Multnomah County Ordains as follows:**

**Section 1. § 37.0670 is amended as follows:**

**§ 37.0670 Recording of Decision.**

The County may impose as a condition of final approval of a Type II, Type III, or Type IV decision, the requirement that the applicant record with the County the Notice of Decision. The Notice of Decision shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division. Recording shall be at the applicant's expense. ~~Any recording required under this section shall be properly signed and executed within 30 days after the decision becomes final; provided, however, that the Planning director may grant reasonable extensions, not to exceed an additional 30 days, in cases of practical difficulty. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision.~~

**Section 2. § 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) 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 SEC 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.

~~(B)~~(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.

~~(C)~~(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 3. § 37.0750 is amended as follows:**

**§ 37.0750 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~~ A different timeframe was specifically included in the decision, or

(B) The decision was for "residential development," as specified in MCC 37.0690(B)(3), which have the expiration timeframes of MCC 37.0690(B) and (C).

FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-15

**Est. Start Time:** 10:55 AM

**Date Submitted:** 04/08/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business and Community  
Services

**Division:** Land Use and Transportation  
Planning Program

**Contact/s:** Gary Clifford, Karen Schilling

**Phone:** 503-988-3043

**Ext.:** 26782

**I/O Address:** 455/116

**Presenters:** Gary Clifford

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**Agenda Title:** First Reading of an ORDINANCE Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, to add Certain Transportation Land Uses, add a Definition of "Water-Dependent Use," and Amend the Definition of "Large Fill"

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

---

**1. What action are you requesting from the Board? What is the department/agency recommendation?**

The request is for adoption of the proposed ordinance. The Planning Commission, the Planning Director, and the Department Director recommend approval.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

This proposal amends the Zoning Code to allow for the County to make a land use permit application in the future for building a replacement Sauvie Island Bridge.

The proposed Code changes came from a review of the existing Zoning regulations and how the existing Zoning regulations might apply to an application for a new bridge over the Multnomah Channel. In that review it was found that this type of public works project was not anticipated during the adoption of the Zoning Code that applies to Sauvie Island and the Multnomah Channel. As a result, the proposed ordinance adds certain

transportation facilities to the list of allowed or conditionally permitted uses and exempts certain aspects of the bridge construction from a few Code requirements because the requirements should not be applied to a bridge.

In general, the code amendments:

- (1) Add several transportation related land uses to the list of permitted land uses in the Exclusive Farm Use and Multiple Use Agriculture zoning districts,
- (2) Add a new definition of "water dependent" in the Willamette River Greenway section, and
- (3) Add an exemption for the bridge in the Large Fill section of the code.

Adoption of the recommended ordinance should reduce the cost of putting together a land use application for the bridge, reduce the number of code criteria that are more likely to be at issue if a land use decision on the bridge is appealed to a state appeal body and court, and eliminate inappropriate code criteria that could prevent the approval of a replacement bridge.

3. **Explain the fiscal impact (current year and ongoing).**  
No fiscal impact is expected.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
  
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
  
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
  
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**

- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

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

Under the State of Oregon land use planning program, land uses listed in County Zoning Codes, including transportation projects, are subject to the restrictions/standards of State Statutes and Administrative Rules for farm lands, "Exception Lands," and transportation related land uses. The proposed amendments to MCC Chapter 34 must be in conformance with those State requirements.

The regulation of "large fills" was adopted by the County in 1998 and was not intended to apply to a public works bridge project.

The amendment of the definition of "water-dependent use" to allow the construction of a bridge must be in compliance with the standards of Statewide Planning Goal 15 and the corresponding State Administrative Rules. The proposal uses the same key language that is in the Zoning Codes of the City of Portland and Clackamas County, which have been found to meet state standards.

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

There were two public work sessions held by the Planning Commission. Notice of a public hearing before the Planning Commission was then mailed to 324 property owners on Sauvie Island and along the Multnomah Channel. The public hearing was attended by three citizens, none of whom gave testimony on the proposal. One letter was received.

**Required Signatures:**

Department/Agency Director: Robert A Maestre

Date: 04/06/04

Budget Analyst

By: \_\_\_\_\_

Date:

Dept/Countywide HR

By: \_\_\_\_\_

Date:



**MULTNOMAH COUNTY**  
**DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES**  
**LAND USE AND TRANSPORTATION PLANNING PROGRAM**  
1600 SE 190<sup>th</sup> Avenue Portland, OR 97233  
(503) 988-3043 FAX: (503) 988-3389

**STAFF REPORT TO THE BOARD OF COUNTY COMMISSIONERS**  
December 4, 2003

**PROPOSED AMENDMENTS TO THE ZONING CODE  
RELATED TO LAND USE REVIEW OF CONSTRUCTION PLANS FOR  
A REPLACEMENT SAUVIE ISLAND BRIDGE**

RECOMMENDATION FOR APPROVAL  
FROM THE MULTNOMAH COUNTY PLANNING COMMISSION

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2.	Page 4	<b>PART II. EXCLUSIVE FARM USE ZONE AMENDMENTS</b>
3.	Page 4 MCC 34.2610(B)	Definition of traffic "channelization" added.
4.	Page 5 MCC 34.2620(G)	Channelization of traffic movements is proposed to be added to list of allowed uses.
5.	Page 7 MCC 34.2630(Q)	Construction of additional passing and travel lanes requiring the acquisition of right of way is proposed to be added to list of conditional uses.
6.	Page 7 MCC 34.2630(R)	Park and ride lots are proposed to be added to list of conditional uses.
7.	Page 8 MCC 34.2630(S)	Realignment of roads is proposed to be added to list of conditional uses.
8.	Page 8 MCC 34.2630(T)	New roads to reduce access or traffic on a state highway are proposed to be added to the list of conditional uses.
9.	Page 9 MCC 34.2630(U)	Transportation facilities, services, and improvements that serve local travel needs which are not otherwise listed in the Exclusive Farm Use district are proposed to be added to list of conditional uses.

10.	Page 10	<b>PART III. MULTIPLE USE AGRICULTURE, RURAL RESIDENTIAL, AND RURAL CENTER ZONING DISTRICTS AMENDMENTS</b>
11.	Page 10 MCC 34.2820(I)	Multiple Use Agriculture zoning district: Transportation facilities and improvements that serve local travel needs or are part of the adopted Functional Trafficways map and plan are proposed to be added to the allowed uses.
12.	Page 10 MCC 34.3120(I)	Rural Residential zoning district: Transportation facilities and improvements that serve local travel needs or are part of the adopted Functional Trafficways map and plan are proposed to be added to the allowed uses.
13.	Page 10 MCC 34.3320(I)	Rural Center zoning district: Transportation facilities and improvements that serve local travel needs or are part of the adopted Functional Trafficways map and plan are proposed to be added to the allowed uses
14.	Page 11	<b>IV. COMMUNITY SERVICE AND CONDITIONAL USE AMENDMENTS</b>
15.	Page 11 MCC 34.6015	Park and ride lot is proposed to be added to list of Community Service Uses.
16.	Page 12 MCC 34.6340	Several additional approval criteria are proposed for certain added transportation uses in the Conditional Uses section of the Exclusive Farm Use zoning district. The criteria are required by Oregon Administrative Rules.
17.	Page 14	<b>V. WILLAMETTE RIVER GREENWAY AMENDMENTS</b>
18.	Page 15 MCC 34.5815(F)	Adds a definition of <i>water-dependent use</i> which also includes bridges that are supported by piers or pillars. The term <i>water-dependent use</i> is used in the approval criteria at MCC 34.5855(Q).
19.	Page 16	<b>VI. LARGE FILL RELATED AMENDMENTS</b>
20.	Page 16 MCC 34.0005(L)(1)	Proposed amendment of the definition of <i>Large Fill</i> that exempts from the requirement for a Large Fill permit that fill material associated with a State or County owned and maintained road or bridge that is designated as a Rural Collector or a Rural Arterial on the Multnomah County Functional Classification of Trafficways map.
21.	Page 17 MCC 34.6700(I)	Proposed addition of a paragraph in the "Purpose" section of <i>Large Fills</i> to clarify that the County has determined that fill material which is part of certain road projects is not a <i>Large Fill</i> , regardless of the quantity of material. In addition, a statement is proposed that states such fills associated with transportation projects are an allowed use in the Exclusive Farm Use district.

**STAFF COMMENTS,  
STATE STATUTES, AND STATE RULES**

**PART I. INTRODUCTION**

The purpose of this proposal is to amend the Zoning Code to allow for a future land use application for building a new Sauvie Island Bridge. That land use application will occur in the future in a public hearing before a County Hearings Officer.

The proposed Code changes came from a review of the existing Zoning regulations in regard to how the regulations and approval criteria might apply to a new bridge over the Multnomah Channel -- connecting Highway 30 to Sauvie Island. In that review, it was found that a replacement bridge was not anticipated during the drafting of the Zoning Code. The proposal then is to add certain transportation facilities to the lists of allowed or conditionally permitted uses, and also to exempt the bridge from approval criteria that should not apply.

Work sessions that looked at the relevant Plan and Code criteria for building a new Sauvie Island bridge were held with the Planning Commission on June 2, 2003 and November 3, 2003.

The proposed amendments include changes to the Exclusive Farm Use, Multiple Use Agriculture, Large Fill, and Willamette River Greenway parts of the Zoning Code Chapter 34, the Code for the Sauvie Island and Multnomah Channel Rural Plan Area.

In general, these code amendments do the following:

- (1) Add several transportation related land uses to the list of permitted land uses in the Exclusive Farm Use and Multiple Use Agriculture zoning districts,
- (2) Add a new definition of "water dependent" in the Willamette River Greenway section, and
- (3) Add an exemption for the bridge in the Large Fill section of the Code.

**DRAFT CODE  
AMENDMENT  
LANGUAGE**

Language underlined is proposed to be added and language with ~~strikethroughs~~ is proposed to be deleted. The places where code sections are skipped is indicated by three asterisks:

\* \* \*

*State Statutes and Administrative Rules corresponding to the proposed amendments are shown in italics in the text box to the left.*



**PART II. EXCLUSIVE FARM USE ZONE  
AMENDMENTS**

In the text box to the right are both existing Code language (plain text) that may apply to the approval of a new bridge and proposed language (underlined) that may need to be added as an allowed or conditional use.

Land uses in the EFU zoning district are limited by Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). For each proposed new listed transportation facility staff has given the State of Oregon authorizing Rule on the left side of the page. The corresponding proposed language is given in the text box to the right. In nearly all instances, the proposed County Code language is identical with the State Rule wording. The need to be as consistent as possible with the overriding State regulation is to better withstand any potential court challenges of the Code and how it may be implemented in the future.

In the following paragraphs, all references to land uses in Division 12 of OAR Chapter 660 (OAR 660-012-0065) are based upon the authorization in the Agricultural Lands Rules in Division 33 of OAR Chapter 660 which reads:

***OAR Chapter 660 Division 33***

***660-033-0120 Table 1***

***Transportation***

\* \* \*

*Transportation improvements on rural lands allowed by OAR 660-012-0065.*

\* \* \*

***Oregon Administrative Rules (OAR) Chapter 660 Division 12***

***660-012-0065 Transportation Improvements on Rural Lands***

*(1) This rule identifies transportation facilities, services and improvements which may be permitted on rural lands consistent with Goals 3, 4, 11, and 14 without a goal exception.*

*(2) For the purposes of this rule, the following definitions apply:*

\* \* \*

*(e) "Channelization" means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and*

***EXCLUSIVE FARM USE -  
EFU***

**§ 34.2610 Definitions**

As used in MCC 34.2600 through MCC 34.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lanes;

\* \* \*

**Oregon Administrative Rules (OAR) Chapter 660 Division 12**  
**660-012-0065 Transportation Improvements on Rural Lands**

\* \* \*

(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:

(a) Accessory transportation improvements for a use that is allowed or conditionally allowed by ORS 215.213, 215.283 or OAR 660, Division 6 (Forest Lands);

(b) Transportation improvements that are allowed or conditionally allowed by ORS 215.213, 215.283 or OAR 660, Division 6 (Forest Lands);

(c) Channelization not otherwise allowed under subsections (a) or (b) of this section;

\* \* \*

(A) Channelization means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. Channelization does not include continuous median turn lanes.

**§ 34.2620 Allowed Uses**

\* \* \*

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result. Reconstruction or modification also includes "channelization" of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

No change is proposed to the listing for "utility facilities." This provision should allow the extension of any needed utility extensions associated with the bridge construction. It is a review use that could be added to the bridge construction application or the use could be reviewed later in an application for a Planning Director's decision.

Radio towers, television towers, and wireless communication facilities (including cell phone towers) have additional approval criteria and different review processes.

(H) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

\* \* \*

#### **§ 34.2625      Review Uses**

(A) Utility facilities necessary for public service, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as follows:

\* \* \*

#### **§ 34.2630      Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to 34.6345:

\* \* \*

**OAR Chapter 660 Division 33**

**660-033-0120 Table 1**

**Transportation**

\* \* \*

*Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.*

\* \* \*

**OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

*(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.*

The above standards in OAR 660-033-0130(5) that require review of impacts on farm and forest practices are found in the Multnomah County Code at MCC 34.6315(A)(3). They would be a condition of approval for any road project that is a conditional use.

The Exclusive Farm Use zoning district is organized to closely reflect how State Rules are given. One of the results of that organization is that, unlike other zoning districts, there is no break out of the uses labeled "Community Service Uses" as a subcategory of Conditional Uses. As a result, park and ride lots are proposed to be a "Conditional Use" in the EFU district, but are proposed in Part IV to be a "Community Service Use" in the MUA-20, RR, and RC districts.

**OAR Chapter 660 Division 12**

**660-012-0065 Transportation Improvements on Rural Lands**

*(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:*

\* \* \*

*(i) Park and ride lots;*

\* \* \*

As a conditional use, any project reviewed under this listing

(Q) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(R) Park and ride lots, [OAR 660-012-0065(3)(i)].

would be subject to a review of impacts on farm and forest practices as found in the Multnomah County Code at MCC 34.6315(A)(3), see Part IV of this report.

**Oregon Administrative Rules Chapter 660 Division 12  
660-012-0065 Transportation Improvements on Rural  
Lands**

(2) For the purposes of this rule, the following definitions apply:

\* \* \*

(f) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan;

\* \* \*

(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:

\* \* \*

(d) Realignment of roads not otherwise allowed under subsection (a) or (b) of this section;

\* \* \*

(5) For transportation uses or improvements listed in subsection (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:

\* \* \*

The standards in ORS 215.296 are found in MCC 34.6315. The other standards in (5) above are proposed to be set up in a new subsection at MCC 34.6340. Both MCC 34.6315 and MCC 34.6340 are found in Part IV of this report.

**Oregon Administrative Rules Chapter 660 Division 12  
660-012-0065 Transportation Improvements on Rural  
Lands**

\* \* \*

(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:

(S) Realignment of roads [OAR 660-012-0065(3)(d)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

(T) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway [OAR 660-012-0065(3)(g)], subject to the following limitations and the ap-

\* \* \*

*(g) New access roads and collectors within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.*

\* \* \*

*(5) For transportation uses or improvements listed in subsection (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:*

\* \* \*

The standards in ORS 215.296 are found in MCC 34.6315. The other standards in (5) above are proposed to be set up in a new subsection at MCC 34.6340. Both MCC 34.6315 and MCC 34.6340 are found in Part IV of this report.

***Oregon Administrative Rules Chapter 660 Division 12  
660-012-0065 Transportation Improvements on Rural  
Lands***

*(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:*

\* \* \*

*(o) Transportation facilities, services and improvements other than those listed in this rule that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.*

\* \* \*

*(5) For transportation uses or improvements listed in subsection (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:*

\* \* \*

The standards in ORS 215.296 are found in MCC 34.6315. The other standards in (5) above are proposed to be set up in a new subsection at MCC 34.6340. Both MCC 34.6315 and MCC 34.6340 are found in Part IV of this report.

approval criteria in MCC  
34.6315 and MCC 34.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(U) Transportation facilities, services and improvements that serve local travel needs [OR 660-012-0065(3)(o)], and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 34.6315 and MCC 34.6340.

### PART III. MULTIPLE USE AGRICULTURE, RURAL RESIDENTIAL, AND RURAL CENTER ZONING DISTRICTS AMENDMENTS

The proposed language in MCC 34.2820(I) would add all “local and farm to market” travel needs as an allowed use to the MUA-20 zoning district. Adding these transportation facilities to the list of allowed uses recognizes that transportation facilities that have been adopted as part of the County Trafficways Map have already gone through the Comprehensive Plan amendment process of public hearings. The same provision is also proposed to be added to the list of “allowed” land uses in the Rural Residential (RR) and Rural Center (RC) zones which are the other two “exception zones” “Exception zones” are those areas for which approval has been given by the State for an “exception” to the farming resource protections of Statewide Planning Goal 3, Agricultural Lands and the associated State Administrative Rules.

Like the EFU zoning district, land uses in the MUA, RR, and RC districts are limited by State Statute and Administrative Rules, but to a much lesser extent. The primary limitations for these districts are found in the “Rural Residential” related Oregon Administrative Rules found in OAR Chapter 660, Division 4.

#### **MULTIPLE USE AGRICULTURE-20 – MUA-20**

##### **§ 34.2820      Allowed Uses**

\*           \*           \*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

\*           \*           \*

#### **RURAL RESIDENTIAL – RR**

##### **§ 34.3120      Allowed Uses**

\*           \*           \*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

\*           \*           \*

#### **RURAL CENTER – RC**

##### **§ 34.3320      Allowed Uses**

\*           \*           \*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County

**PART IV. COMMUNITY SERVICE AND  
CONDITIONAL USE AMENDMENTS**

Staff recommends the following two additions to the Sauvie Island Zoning Code chapter. First is a listing for "park and ride lots" as one of the list of Community Service Uses (see Part II, MCC 34.2630(R) for corresponding EFU listing). By listing this use as a Community Service Use, it will be then be permitted as a subcategory of the Conditional Uses in the Multiple Use Agriculture, Rural Residential, and Rural Center zoning districts.

The second proposed code addition is a new section at MCC 34.6340 that adds approval criteria for three new conditional use transportation land uses in the EFU zone as required by Oregon Administrative Rules. The three transportation land uses are:

Functional Classification of  
Trafficways map and plan,  
except that transit stations and  
park and ride lots shall be sub-  
ject to the provisions of  
Community Service Uses.

\* \* \*

**COMMUNITY SERVICE – CS  
§ 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.

\* \* \*

(21) Transit station or park  
and ride lot.

\* \* \*

(28) 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.



1. MCC 34.2630(S) Realignment of roads [OAR 660-012-0065(3)(d)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:  
\* \* \*
2. MCC 34.2630(T) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway [OAR 660-012-0065(3)(g)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:  
\* \* \*
3. MCC 34.2630(U) Transportation facilities, services and improvements that serve local travel needs [OAR 660-012-0065(3)(o)], and which:
  - (1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and
  - (2) Satisfy the approval criteria in MCC 34.6315 and MCC 34.6340.

***Oregon Administrative Rules Chapter 660 Division 12  
660-012-0065 Transportation Improvements on Rural Lands***

*(5) For transportation uses or improvements listed in subsection (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:*

*(a) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. Until adoption of a local TSP pursuant to the requirements of OAR 660-012-0035, the jurisdiction shall consider design and operations alternatives within the project area that would not result in a substantial reduction in peak hour travel time for projects in the urban fringe that would significantly reduce peak hour travel time. A determination that a project will significantly reduce peak hour travel time is based on OAR 660-012-0035(10). The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;*

*(b) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and*

**§ 34.6340 Additional approval criteria for certain transportation uses in the Exclusive farm use zoning district.**

For the transportation uses listed in MCC 34.2630(S), (T), and (U), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm

*(c) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.*

Multnomah County has an adopted Transportation System Plan (TSP) and therefore some of the above requirements do not apply.

The following County Code section is included for reference purposes because it is the other set of approval criteria referenced in the proposed MCC 34.2630(S), (T), and (U) subsections.

#### **CONDITIONAL USES – CU**

##### **§ 34.6315 Conditional Use Approval Criteria**

*(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:*

- (1) Is consistent with the character of the area;*
- (2) Will not adversely affect natural resources;*
- (3) Will not conflict with farm or forest uses in the area:*
  - (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
  - (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*
- (4) Will not require public services other than those existing or programmed for the area;*
- (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife*

and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

\* \* \*

*or that agency has certified that the impacts will be acceptable;*

*(6) Will not create hazardous conditions; and*

*(7) Will satisfy the applicable policies of the Comprehensive Plan.*

\* \* \*

## **PART V. WILLAMETTE RIVER GREENWAY AMENDMENTS**

After reviewing the approval criteria in the Willamette River Greenway (WRG) subdistrict, staff finds that one particular standard at MCC 34.5855(Q) could pose a problem for siting a new bridge if it is not clear in the code that bridges are “water-dependent uses.” The problem is that there is a 150 foot setback standard from the Willamette River for all uses that are not “water-related or water-dependent uses.” A new definition of “water-dependent use” is proposed that makes that point. The definition is very close to the definition that the City of Portland and Clackamas County use in their Willamette River Greenway code parts.

There are advantages, both in legal defense and ease of use by the public, in adopting a definition that is close to that used by the City of Portland and Clackamas County – the two jurisdictions having the closest and most similar portions of the Willamette River in their zoning jurisdiction. Therefore, the proposed definition of *water dependent use* is based upon their codes. Adding that one definition appears to allow for a bridge to encroach into the 150 foot building setback as required in MCC 34.5855(Q).

Staff sees no reason to add a definition for “water-related” because: (1) defining only “water dependent” solves the problem by exempting the bridge from the water setback requirement, and (2) there are too many issues involved in determining a definition of “water related” that are not within the scope of this code amendment project. A listing of “water-related” land uses would include discussion and evaluation of such diverse land uses as houseboats, spoil sites, parking areas, and recreation trails, all of which might be addressed in a future code amendment project.

The criteria of approval and the few definitions in the existing WRG subdistrict regulations were derived from Statewide Planning Goal 15, Willamette River Greenway (OAR 660-015-

0005 and 660-020-0060) and the provisions in Oregon Revised Statutes 390.310 through 390.368. Although not as proscriptive as many of the state rules and statutes, staff concludes that a WRG permit review would be required for any proposed bridge.

The wording of the most problematic WRG standard is:

**“§ 34.5855 Greenway Design Plan**

The elements of the Greenway Design Plan are:

\* \* \*

(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a *water-related or a water-dependent use.*”

\* \* \*

*City of Portland Zoning Code:*

*Title 33, Chapter 33.910.030 River-dependent. A use which can be carried out only on, in, or adjacent to a river because it requires access to the river for waterborne transportation or recreation. River-dependent also includes development, which by its nature, can be built only on, in, or over a river. Bridges supported by piers or pillars, as opposed to fill, are river-dependent development.*

*Clackamas County Zoning Code:*

*Section 705.02B.5. Water-dependent use: A use or activity that can be carried out only on, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water.*

***WILLAMETTE RIVER  
GREENWAY – WRG***

**§ 34.5815 Definitions**

For the purposes of this district, the following terms and their derivations shall have the following meanings. Definitions (A) through (E) are derived from as defined in paragraph a. of the Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission, dated December 6, 1975.

÷

\* \* \*

(F) Water-dependent use – means a use which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation or recreation. Water-dependent use also includes development, which by its nature, can be built only on, in, or over a water body (including a river). Bridges supported by piers or pillars are water-dependent uses.

\* \* \*

## PART VI. LARGE FILL AMENDMENTS

In this section is a proposal to amend the definition of *Large Fill* to exclude fill material that may be deposited as part of a State or County road project. Such fills would continue to be subject to Grading and Erosion permits and Hillside Development permits.

The reason for excluding fills associated with road projects from *Large Fill* review is because (1) erosion and stability concerns are covered by other required reviews, and in particular (2) this type of fill is very different from the *Large Fills* where dumping of materials occurs over a long period of time on private property.

Without the amended definition that exempts road projects, the following *Large Fill* regulations could prevent, or require undue difficulties, in the ability to use larger amounts of fill material for the Sauvie Island bridge construction:

### 1. MCC 34.6705 Excluded Areas

*Large fills shall not be allowed in:*

\* \* \*

(B) *Other stream areas protected by other local, state and federal agencies;*

\* \* \*

(D) *100 year floodplains.*

### 2. MCC 34.6715 Criteria for Approval

*The approval authority shall find that:*

\* \* \*

(B) *The applicant has shown that the following standards can or will be met by a specified date:*

(1) *Access and traffic.*

(e) *Truck movements related to the dumping of materials shall occur entirely on-site and not utilize the public right-of-way or private easements.*

\* \* \*

(2) *Buffer requirements.*

(a) *All existing vegetation and topographic features which would provide screening and which are within 100 feet of the proposed area of fill shall be preserved. The applicant shall demonstrate that the existing screening is sufficient to*

## § 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.

\* \* \*

(L) (1) **Large Fill** – The addition of more than 5,000 cubic yards of material to a site, excepting fill material associated with a State or County owned and maintained road or bridge that is designated as a Rural Collector or a Rural Arterial on the Multnomah County Functional Classification of Trafficways map. The Trafficways map is part of the County Comprehensive Framework Plan.

\* \* \*

*ensure the project site will not noticeably contrast with the surrounding landscape, as viewed from an identified viewing areas, neighboring properties, or accessways, or*

*(b) If existing vegetation and topography is insufficient to obscure the site from neighboring properties, accessways or identified key viewing areas, the applicant shall propose methods of screening and indicate them on a site plan. Examples of screening methods include landscape berms, hedges, trees, walls, fences or similar features. All required screening shall be in place prior to commencement of the fill activities.*

*(c) The Approval Authority may grant exceptions to the screening requirements if:*

- 1. The proposed fill area, including truck line-up area and fill areas are not visible from any neighboring properties, key viewing areas and accessways identified in (b) above, or*
- 2. Screening will be ineffective because of the topographic location of the site with respect to surrounding properties.*

\* \* \*

*(4) Timing of Operation.*

\* \* \*

*(b) The placement of fill materials shall not occur from October 1<sup>st</sup> – May 1<sup>st</sup>.*

\* \* \*

*(6) Minimum Setbacks.*

*(a) For filling activities the minimum setback shall be 100 feet to a property line, or if multiple parcels, to the outermost property line of the site.*

\* \* \*

*(7) Reclaimed Topography.*

\* \* \*

*Reclaimed surfaces shall conform with the natural landforms of the surrounding terrain.*

\* \* \*

The new definition of Large Fill would then exclude transportation projects from the requirement to meet the above requirements. As further support for the proposed new definition, an additional clarification is proposed to be added to the “purpose” subsection. That clarification backs up the new definition and concludes that fill material associated with road projects have

**CONDITIONAL USES  
LARGE FILLS**

**§ 34.6700 Purposes**

The purpose of the Large Fills section is to address the need

been determined to be a permitted use in the Exclusive Farm Use zoning district, (subject to State restrictions).

for large fill sites in the unincorporated area of Multnomah County while protecting the rural character and natural resources of the County. These regulations are designed to:

\* \* \*

(G) To be consistent with state rules which do not currently list large fill sites as a use in farm and forest resource zones; ~~and~~

(H) To clarify that at the time of adoption of this ordinance (Ordinance 922, 1998), Multnomah County has not made the determination that the use of large fills would or would not be consistent with other uses allowed in the farm and forest zones due to the fact that they are not uses allowed under state rules; and

(I) To clarify that, at the time of adoption of (this Ordinance, 2003), it has been determined by Multnomah County that fills associated with the construction of a State or County owned and maintained roads and bridges that are designated as a Rural Collector or Rural Arterial on the Functional Classification of Trafficways map shall not be a Large Fill, regardless of the quantity of fill material on a site. It is further determined that fills that are in conjunction with and part of approved transportation projects are an allowed use in the Exclusive Farm Use district under state rules.

BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. PC 03-03**

Recommend to the Board of County Commissioners the adoption of an ordinance amending MCC Chapter 34 by adding certain transportation related land uses to several zoning districts, adding a definition of "water-dependent use" to the Willamette River Greenway subdistrict, and amending the definition of "Large Fill" to exempt fill material associated with a public road or bridge project.

**The Planning Commission Finds:**

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsection 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- b. The individual Zoning Code chapters should be periodically updated in response to changing conditions and situations.
- c. The discovery in the last few years of structural problems with the Sauvie Island Bridge has resulted in an examination of the Sauvie Island Zoning Code Chapter in regard to anticipation of a proposal for a replacement bridge. That review of the Code found unnecessary impediments to future proposals for such a bridge.
- d. After notification of all owners of property within the area of the Sauvie Island and Multnomah Channel Rural Plan Area, the Planning Commission held a public hearing on December 1, 2003 where all interested persons were given an opportunity to appear and be heard.

**The Planning Commission Resolves:**

1. The Zoning Code Chapter for Sauvie Island and the Multnomah Channel should be updated to provide Code provisions that would, subject to review of the plans at future public hearings, allow for the construction of a replacement bridge to the Island.
2. The proposed Ordinance amending MCC Chapter 34 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 1st day of December, 2003.

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY, OREGON

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



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO.

Amending MCC Chapter 34, Land Use Code, Sauvie Island/Multnomah Channel Rural Plan Area, To Add Certain Transportation Land Uses, Add a Definition of "Water-Dependent Use," and Amend the Definition of "Large Fill."

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

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

- a. Periodically there is a need to review and update Zoning Code provisions due to changing circumstances. Such a review of the Zoning Code for the Sauvie Island and Multnomah Channel Rural Plan Area has become necessary to allow for more options than currently exist in the Code for a potential replacement bridge connecting State Highway 30 with Sauvie Island over the Multnomah Channel. In addition, it is necessary to amend the Code to remove inadvertent and unanticipated regulatory obstacles to the potential approval of a replacement bridge. Those obstacles were not intentionally enacted and they have become recognized only after the structural integrity problems of the existing bridge became known.
- b. The Planning Commission has found that the amendments and additions to MCC Chapter 34 in this Ordinance are needed to provide for a future land use application for a replacement bridge to serve Sauvie Island. That determination was made after a public hearing was held on December 1, 2003 where all interested persons were given an opportunity to appear and be heard. Notice of the public hearing was sent to all property owners in the area subject to Multnomah County Zoning Code 34.
- c. The Planning Commission is authorized by Multnomah County Code subsection MCC 34.0140 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to implement the Multnomah County Comprehensive Plan.
- d. Under the State of Oregon land use planning program, land uses listed in County Zoning Codes, including transportation projects, are subject to the restrictions and standards of Statutes, Farm and Forest Administrative Rules, "Exception Lands" Rules, and Transportation Planning Rules. The changes to MCC Chapter 34 that are in this Ordinance closely follow those State requirements.
- e. The additions and amendments in this ordinance are also found by the Board of County Commissioners to be needed updates to the Zoning Code for Sauvie Island and the Multnomah Channel. They are needed to allow for future transportation facility options, including a potential replacement bridge for Sauvie Island.

**Multnomah County Ordains as follows:**

**Section 1. § 34.0005 is amended to read as follows:**

**§ 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.

\*\*\*\*\*

(L)(1) **Large Fill** – The addition of more than 5,000 cubic yards of material to a site, excepting fill material associated with a State or County owned and maintained road or bridge that is designated as a Rural Collector or a Rural Arterial on the Multnomah County Functional Classification of Trafficways map. The Trafficways map is part of the County Comprehensive Framework Plan.

\*\*\*\*\*

**Section 2. § 34.2610 is amended as follows:**

**§ 34.2610 Definitions**

As used in MCC 34.2600 through MCC 34.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

Channelization means the separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. Channelization does not include continuous median turn lanes.

\*\*\*\*\*

**Section 3. § 34.2620 is amended as follows:**

**§ 34.2620 Allowed Uses**

\*\*\*\*\*

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result. Reconstruction or modification also includes “channelization” of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

\*\*\*\*\*

**Section 4. § 34.2630 is amended as follows:**

**§ 34.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to 34.6335:

\*\*\*\*\*

(OP) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(RQ) Park and ride lots, [OAR 660-012-0065(3)(i)].

(SR) Realignment of roads [OAR 660-012-0065(3)(d)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:

(1) "Realignment" means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

(TS) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway [OAR 660-012-0065(3)(g)], subject to the following limitations and the approval criteria in MCC 34.6315 and MCC 34.6340:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(UT) Transportation facilities, services and improvements that serve local travel needs [OAR 660-012-0065(3)(o)], and which:

(1) Are not otherwise listed as a use in this EFU district or in OAR 660-012-0065 "Transportation Improvements on Rural Lands;" and

(2) Satisfy the approval criteria in MCC 34.6315 and MCC 34.6340.

**Section 5. § 34.2820 is amended as follows:**

**§ 34.2820 Allowed Uses**

\*\*\*\*\*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except

that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

**Section 6. § 34.3120 is amended as follows:**

**§ 34.3120      Allowed Uses**

\*\*\*\*\*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

**Section 7. § 34.3320 is amended as follows:**

**§ 34.3320      Allowed Uses**

\*\*\*\*\*

(I) Transportation facilities and improvements that serve local and farm to market travel needs or are part of the adopted Multnomah County Functional Classification of Trafficways map and plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.

**Section 8. § 34.5815 is amended as follows:**

**§ 34.5815      Definitions**

For the purposes of this district, the following terms and their derivations shall have the following meanings. Definitions (A) through (E) are derived from ~~as defined in~~ paragraph a. of the *Order Adopting Preliminary Willamette River Greenway Plan of the Oregon Land Conservation and Development Commission*, dated December 6, 1975.

\*\*\*\*\*

(F) *Water-dependent use* – means a use which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation or recreation. *Water-dependent use* also includes development, which by its nature, can be built only on, in, or over a water body (including a river). Bridges supported by piers or pillars are *water-dependent uses*.

**Section 9. § 34.6015 is amended as follows:**

**§ 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.

\*\*\*\*\*

(21) Transit station or park and ride lot.

\*\*\*\*\*

**Section 10. § 34.6340 is added as follows:**

**§ 34.6340 Additional Approval Criteria for Certain Transportation Uses in the Exclusive Farm Use Zoning District**

For the transportation uses listed in MCC 34.2630(S), (T), and (U), the Hearing Authority shall find that Multnomah County has:

(A) Identified reasonable build alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer.

(B) Assessed the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands.

(C) Selected from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

**Section 11. § 34.6700 is amended as follows:**

**§ 34.6700 Purposes**

The purpose of the Large Fills section is to address the need for large fill sites in the unincorporated area of Multnomah County while protecting the rural character and natural resources of the County. These regulations are designed to:

\*\*\*\*\*

(G) To be consistent with state rules which do not currently list large fill sites as a use in farm and forest resource zones; ~~and~~

(H) To clarify that at the time of adoption of this ordinance (Ordinance 922, 1998), Multnomah County has not made the determination that the use of large fills would or would not be consistent with other uses allowed in the farm and forest zones due to the fact that they are not uses allowed under state rules; and

(I) To clarify that, at the time of adoption of this ordinance (Ordinance \_\_\_\_\_, 200 ), it has been determined by Multnomah County that fills associated with the construction of a State or County owned and maintained roads and bridges that are designated as a Rural Collector or Rural Arterial on the Functional Classification of Trafficways map shall not be a *Large Fill*, regardless of the quantity of fill material on a site. It is further determined that fills that are in conjunction with and part of approved transportation projects are an allowed use in the Exclusive Farm Use district under state rules.

FIRST READING:

\_\_\_\_\_  
May 6, 2004

SECOND READING AND ADOPTION:

\_\_\_\_\_  
May 13, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*  
Sandra N. Duffy, Assistant County Attorney

## AGENDA PLACEMENT REQUEST

**BUD MOD #:**

**Board Clerk Use Only:**

**Meeting Date:** May 6, 2004

**Agenda Item #:** R-16

**Est. Start Time:** 11:10 AM

**Date Submitted:** 04/12/04

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**Requested Date:** May 6, 2004

**Time Requested:** 15 minutes

**Department:** Business & Community Services

**Division:** Environmental Compliance

**Contact/s:** Kim Peoples

**Phone:** 503-988-3043

**Ext.:** 26797

**I/O Address:** 455/116

**Presenters:** Kim Peoples

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**Agenda Title:** First Reading and Possible Adoption of an Ordinance Amending MCC Land Use Chapters 33 through 38 with Respect to Violations and Enforcement, and Declaring an Emergency

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.  
For all other submissions, provide clearly written title.**

- 
1. **What action are you requesting from the Board? What is the department/agency recommendation?**  
Adopt Ordinance. Planning Commission Resolution No. PC 03-05 recommends adoption of Amendments to Multnomah County Code Enforcement provisions in the following chapters 33.0910, 34.0910, 35.0910, 36.0910, and 38.0910.
  2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
Amendments to the Land Use Code provisions address problematic areas of the existing Code Enforcement program. Currently there is a substantial backlog of potential code violations due to several factors. To correct the deficiencies of the Code Enforcement program there has been a functional reorganization by housing the program within the Environmental Compliance program (formerly the water quality program) and dedicating 1 FTE to code compliance matters. Substantive amendments provide for a graduated response to alleged code violations by emphasizing voluntary compliance first with the eventual capability to issue a Notice of Violation and fine based on an objective formula

for consistent application. Another significant provision is the addition of a Hearings Officer as the appellate body rather than the Planning Director as is currently the case.

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

There may be a financial impact to unincorporated County residents who are found to be in violation of the land use or transportation code. Fiscal impact is further dependant on whether there is voluntary compliance towards remedying the alleged violation in which case impact may only be the cost of conforming to the code, e.g., cost of pursuing a permit or cost of abatement. Failure to voluntarily comply may result in a fine pursuant to a Notice of Violation in addition to the cost of remedying the violation.

Financial impact to the County will be negligible from a personnel standpoint. The new program is centered on a "Code Compliance Specialist" who will serve as the administrator of the program. This position evolves from transfer of a vacant land use planner position and subsequent reclassification to the Code Compliance Specialist. The Program will utilize existing Hearings Officers to fulfill the appellate process. There will be an administrative fee to help defray the cost of an appeal.

Although not the goal of the Program, it is anticipated through the assessment and recovery of fines the County will receive a financial benefit. Additionally, as compliance is gained it is anticipated more permits will be processed with accompanying fees.

**NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.**

**If a budget modification, explain:**

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

**NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

**If a contingency request, explain:**

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

**If grant application/notice of intent, explain:**

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**



- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

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

Pursuant to Oregon Revised Statutes 203.065, the County may enforce its Code.

The proposed code compliance program encourages voluntary compliance for alleged violations. The protocol, outlined in a Administrative Code Compliance Procedures Manual, calls for a series of opportunities through correspondence and personal contact with the alleged violator to work through solutions to the identified violation(s). Failure to gain cooperative resolution to the alleged violation will result in a written Notice of Violation and the potential for a fine based on a formula for consistent process. The Board of County Commissioners has adopted land use planning values that provide the basis for this approach.

*"We seek fairness, equity and balance in finding creative solutions that build community as well as benefit the public."*

*We value swift, accessible and understandable processes that are administered in a consistent and predictable manner in compliance with applicable local and state laws."*

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

The Planning Commission held a work session and two public hearings on the matter. Staff also solicited public comment from 25 community groups and interested parties. Staff received comment from the Columbia River Gorge Commission, the Friends of the Gorge and an interested citizen.

The Department of Land Conservation and Development has received notice of this proposal.

**Required Signatures:**

**Department/Agency Director:**

*Robert A. Maestre*

**Date: 04/07/04**

**Budget Analyst**

**By:**

**Date:**

**Dept/Countywide HR**

**By:**

**Date:**

**BEFORE THE PLANNING COMMISSION  
FOR MULTNOMAH COUNTY**

**RESOLUTION NO. PC 03-05**

In the matter of Recommending Amendments to Multnomah County Code Compliance Provisions in chapters 33, 34, 35, 36 and 38.

**The Planning Commission Finds:**

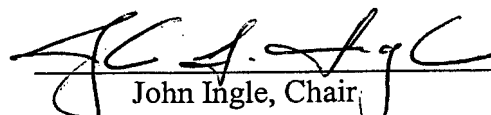
- a. The Multnomah County Land Use and Transportation Program propose amendments to Multnomah County Code Compliance Provisions in chapters 33, 34, 35, 36 and 38; and,
- b. The current ordinance procedures contained in MCC 33.0910, 34.0910, 35.0910, 36.0910, and 38.0910 provide for a code enforcement planner(s) to serve in an enforcement capacity and the Planning Director serves as the appellate body; and,
- c. Under the existing program framework there is a substantial backlog of unresolved zoning cases; and,
- d. The Planning Commission conducted two work sessions and two public hearings in consideration of the form of the code compliance program including the emphasis on voluntary compliance followed by increasingly vigorous enforcement mechanisms; and,
- e. The proposed ordinance amendment provides for a dedicated code compliance specialist to administer the code compliance program and a hearings officer as the appellate body. The amendments of administration and procedures should reduce the backlog and dependence on planning staff for unresolved zoning violations.

**The Planning Commission Resolves:**

1. Resolution PC 03-05 and the corresponding Ordinance captioned "An Ordinance Amending the Violations and Enforcement regulations contained in MCC 33.0910, 34.0910, 35.0910, 36.0910, and 38.0910 for land use violations to increase the capability of the County to gain compliance with land use regulations" is hereby recommended for approval by the Board of County Commissioners.

ADOPTED this 2<sup>nd</sup> day of February, 2004

PLANNING COMMISSION  
FOR MULTNOMAH COUNTY

  
John Ingle, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. \_\_\_\_\_**

Amending MCC Land Use Chapters 33 through 38 with Respect to Violations and Enforcement,  
and Declaring an Emergency

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

- a. The Multnomah County Land Use and Transportation Program propose amendments to Multnomah County Code Chapters 33 through 38 with respect to code compliance.
- b. The current enforcement procedures contained in MCC 33.0910, 34.0910, 35.0910, 36.0910, and 38.0910 provide for code enforcement planners to serve in an enforcement capacity and the Planning Director to hear appeals.
- c. Under the existing program framework there is a substantial backlog of unresolved zoning cases.
- d. The Planning Commission conducted two work sessions and two public hearings in consideration of the form of a new code compliance program with emphasis on voluntary compliance followed by increasingly vigorous enforcement mechanisms.
- e. The proposed amendment provides for a dedicated code compliance specialist to administer the code compliance program and a hearings officer to hear appeals and impose fines set by the Director. These amendments should reduce the backlog and dependence on planning staff for unresolved zoning violations.
- f. It is the County's intent to work with all property owners to investigate and attempt to resolve all code violations. However, code enforcement resources are sometimes limited and this code may be enforced on a priority system regardless of the order in which complaints are received. The following violations shall receive priority as resources allow:
  - violations that present an imminent threat to public health and safety;
  - violations affecting the environment;
  - violations within the National Scenic Area;
  - violations creating irreparable damage;
  - violations involving ongoing unpermitted construction;
  - violations for failure to comply with permits;
  - violations affecting a neighboring property;
  - a violation within a site that is considered a critical area, including, but not limited to a view-shed, habitat or landslide area; and
  - any court ordered enforcement action.

- g. The Director of Business and Community Services will set criteria for determining fines and appeal and administrative fees as appropriate. The Director may adjust the fine depending on the nature of the violation, the violator's history of violations and the violator's cooperation in correcting the violation. The Director may choose from the following options:

- (1) A single fine; or
- (2) A single grace period with no fine assessed unless the violation continues past the expiration of that grace period; or
- (3) A daily fine until the violation has been corrected; or
- (4) A fine schedule established as part of the Hearing Officer's order.

**Multnomah County Ordains as follows:**

**Section 1.** MCC §§ 33.0910, 34.0910, 35.0910, 36.0605, 36.0910 and 38.0910 are amended to read as follows and MCC §§ 33.0915, 34.0915, 35.0915, 36.0915 and 38.0915 are repealed:

**§ 33.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 34.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 35.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 36.0605 Enforcement**

The Director of the Department of Business and Community Services (DBCS) and the Director's delegates shall be responsible for securing the enforcement of the provision of this Ordinance.

**§ 36.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the

County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

## **§ 38.0910      Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**Section 2.**      MCC Chapter 37 is amended to add §§ 37.0910 – 37.09XX as follows:

## **§ 37.0900\*      VIOLATIONS, ENFORCEMENT AND FINES**

### **§ 37.0910      Definitions**

As used in MCC 37.0910 – 37.09XX, the following words mean:

**Days** - Calendar days, not business days unless specifically provided otherwise.

**Director** - The Director of the Department of Business and Community Services or her/his delegates.

**Hearings Officer Order** - The imposition of a fine according to criteria set by the Director or a decision in the appeal of a Notice of Violation, which shall be signed by the respondent and property owner, if different.

**Notice of Violation** - A written notice given to a person whose action or failure to act constitutes a violation under MCC §§ 37.0915 and the property owner, if different. The Notice shall include assessed fines for such violation and the appeal rights and requirements.

**Person** means:

- (1) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; and/or, the person taking the action, or responsible for the conduct or omission which constitutes a violation under MCC § 37.0915;
- (2) The United States or agencies thereof, any state or state agency, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof; or
- (3) For the purposes of this ordinance, "person" also includes individuals who reside or conduct business or other activities in the unincorporated areas of Multnomah County.

**Respondent** means: The person alleged to have committed a violation or to be responsible for such violation.

### **§37.0915      Violations**

Any use of land, land division or adjustment to property boundaries or other activity by a person in violation of any provision of:

(A) MCC Chapters 33, 34, 35, 36 and 38; §§ 29.001 – 29.011, 29.300 through 29.325 and 29.500 through 29.630; or the terms and conditions of any permit issued under those code provisions; or

(B) Any statute adopted by the Oregon Legislature and those land use planning goals and rules of the Land Conservation and Development Commission (LCDC) that apply directly to the County through ORS 197.646

may be subject to enforcement and fines as provided in this subchapter.

### **§ 37.920      Policy and Purpose**

Multnomah County's policy shall be to seek voluntary compliance in addressing code violations and use an enforcement approach when voluntary compliance fails. The purpose of these code compliance provisions is to implement this policy and provide prompt, effective and efficient enforcement of the County's land use and transportation codes

### **§ 37.0925      Rules; Code Compliance Specialist**

The Director may adopt rules for the administration of the code compliance program.

The Director may appoint one or more Code Compliance Specialists (CCS) for purposes of administering the program. The Director may delegate the duties of the CCS to other staff of DBCS. When an alleged violation is reported to, or discovered by the County, the CCS will evaluate the complaint and conduct a preliminary investigation to identify the priority level of the violation. The CCS will not proceed further if it is determined that there is not sufficient evidence to support the allegation. If it is determined that a violation exists, the CCS will first seek voluntary compliance and may issue a Notice of Violation and fine when voluntary compliance fails.

### **§ 37.0930      Enforcement Levels**

The levels of enforcement are:

- (A) Voluntary compliance;
- (B) Correction Notice;
- (C) Notice of Violation and fine;
- (D) Petition for injunction and other remedies in state court.

### **§ 37.0935      Voluntary Compliance Agreement**

(A) The County may enter into a written voluntary compliance agreement with respondent, and the property owner, if different, before or after a Notice of Violation is issued. The agreement shall include the applicable code provision(s), required corrective action, time limits for compliance, fines if applicable and shall be binding.

(B) The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation.

(C) The CCS will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action.

(D) Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by these provisions, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The CCS may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

#### **§ 37.0940 Notice of Violation, Abatement, Fine and Right to Appeal**

(A) The CCS may issue respondent, and property owner, if different, a Notice of Violation and may require the respondent and property owner, if different, to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The Notice of Violation shall contain: name and address of the person committing the violation and property owner, if different; address or location of the alleged violation; nature of violation, including, County Code provisions, statute or administrative rules section violated; relief sought; department initiating procedure, and the fine to be paid as a result of committing the violation.

(B) Respondent or property owner, if different, may admit the existence of a violation by paying the fine and correcting the violation. Payment of the fine does not relieve respondent or property owner of the requirement to correct the violation.

(C) If the violation is disputed, respondent or property owner may file a written request for an appeal hearing with the CCS within 14 days of the date when the Notice of Violation was served or mailed. Such appeal requests must be accompanied by the appeal fee as indicated in the Notice to help defray the cost of the appeal

(D) Notice of Violation may be served by personal service on respondent and property owner, if different. Notice of Violations may also be served by certified mail, return receipt requested through the United States Postal Service.

(E) The CCS may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code if efforts to secure voluntary compliance have failed.

#### **§ 37.0945 Emergency Enforcement**

If the CCS determines that the violation presents an immediate danger to the public health, safety, welfare or substantial evidence of environmental harm including but not limited to, any discharge of pollutants to waters of the state that cause or contribute to a violation of applicable water quality standards, the CCS may require immediate remedial action. If the CCS is unable to serve a Notice of Violation on the respondent and property owner, if different, or, if after such service, the respondent or property owner refuse or are unable to remedy the violation, the CCS may proceed to remedy the violation by any means available under law, and the County shall be entitled to its reasonable administrative costs and attorney fees.

#### **§ 37.0950      Failure to Appeal**

If the respondent or property owner does not file a written appeal of the violation within 14 days of the date when the Notice of Violation is served or mailed, the CCS shall forward the Notice of Violation to the Compliance Hearings Officer for review and issuance of a final order imposing the fine assessed in the Notice and any administrative fees and costs.

#### **§ 37.0955      Appeal**

##### **(A) Persons Authorized to Appeal Notice of Violation**

- (1) The Notice of Violation may be appealed by the respondent, property owner, the property owner's representative or other person who has been included as part of the Notice of Violation.
- (2) A representative of the property owner must have documentation demonstrating that they are an authorized agent of the property owner.

##### **(B) Notice of Hearing**

- (1) The notice shall contain the time, date, and place of the hearing. A copy of the Notice of Violation and a description of the appeal process and associated rights shall be attached to the notice.
- (2) Notice shall be served on the respondent and property owner, if different, by personal service or certified mailed, return receipt requested at least 15 days prior to the hearing date. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail. Notice will also be provided to surrounding properties within 750 feet of the subject property, complainant if known and other known interested parties.
- (3) Failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this subchapter.

##### **(C) Appeal Hearing**

- (1) Hearings to determine whether a violation has occurred shall be held before the Hearings Officer. The County must prove the violation alleged by a preponderance of the evidence.



(2) The Hearings Officer shall order a person found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such person to do any of the following:

- (a) Obtain any and all necessary permits, inspections and approvals;
- (b) Install any equipment necessary to achieve compliance;
- (c) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
- (d) Reimburse the County for actual costs incurred in conjunction with the enforcement action;
- (e) Pay a civil fine for the violation and any fees and costs to the County;
- (f) Pay a reduced fine;
- (g) Undertake any other action reasonably necessary to correct the violation.

(3) The Hearing Officer's order shall be in writing or stated in the record and may be accompanied by an opinion.

#### **§ 37.0960      Enforcement of Hearing Officer Order**

(A) Fines, fees and costs are payable on the effective date of the order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines, fees or costs are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record.

(B) The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil fine, fees or costs imposed by such order.

#### **§ 37.0965      Civil Fine**

Violations as defined in MCC 37.0915 may be subject to fines and liens. Fines may be assessed for each violation each day.

(A) Maximum fines shall not exceed \$3,500 for each day of noncompliance; minimum fine shall not be less than \$45 for each day of noncompliance.

(B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.

#### **§ 37.0970      Judicial Review.**

Review of the final order of a Hearings Officer under this subchapter by any aggrieved party, including Multnomah County, shall be by writ of review as provided in ORS 34.010 through 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.

Any appeal of a Hearing Officer decision in the National Scenic Area may be reviewed by the Columbia River Gorge Commission.

**Section 3** This ordinance, being necessary to implement new policies and process for outstanding enforcement of land use code violations and for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and the ordinance shall take effect on May 6, 2004, pursuant to section 5.50 of the Charter of Multnomah County.

FIRST READING AND ADOPTION:

May 6, 2004

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy  
Sandra N. Duffy, Assistant County Attorney

#1

MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk  
\*\*\*This form is a public record\*\*\*

MEETING DATE: 6 MAY 04

SUBJECT: LAND USE ENFORCEMENT PROPOSAL

AGENDA NUMBER OR TOPIC: R-16

FOR: \_\_\_\_\_ AGAINST: ☒ THE ABOVE AGENDA ITEM

NAME: BOB LEPPER

ADDRESS: PO BOX 94

CITY/STATE/ZIP: TROUTONIE, OR 97060

PHONE: DAYS: 503-695-5276

EVES: \_\_\_\_\_

EMAIL: \_\_\_\_\_

FAX: \_\_\_\_\_

SPECIFIC ISSUE: \_\_\_\_\_

WRITTEN TESTIMONY: \_\_\_\_\_

**IF YOU WISH TO ADDRESS THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

**IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:**

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 1032**

Amending MCC Land Use Chapters 33 through 38 with Respect to Violations and Enforcement,  
and Declaring an Emergency

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

- a. The Multnomah County Land Use and Transportation Program propose amendments to Multnomah County Code Chapters 33 through 38 with respect to code compliance.
- b. The current enforcement procedures contained in MCC 33.0910, 34.0910, 35.0910, 36.0910, and 38.0910 provide for code enforcement planners to serve in an enforcement capacity and the Planning Director to hear appeals.
- c. Under the existing program framework there is a substantial backlog of unresolved zoning cases.
- d. The Planning Commission conducted two work sessions and two public hearings in consideration of the form of a new code compliance program with emphasis on voluntary compliance followed by increasingly vigorous enforcement mechanisms.
- e. The proposed amendment provides for a dedicated code compliance specialist to administer the code compliance program and a hearings officer to hear appeals and impose fines set by the Director. These amendments should reduce the backlog and dependence on planning staff for unresolved zoning violations.
- f. It is the County's intent to work with all property owners to investigate and attempt to resolve all code violations. However, code enforcement resources are sometimes limited and this code may be enforced on a priority system regardless of the order in which complaints are received. The following violations shall receive priority as resources allow:
  - violations that present an imminent threat to public health and safety;
  - violations affecting the environment;
  - violations within the National Scenic Area;
  - violations creating irreparable damage;
  - violations involving ongoing unpermitted construction;
  - violations for failure to comply with permits;
  - violations affecting a neighboring property;
  - a violation within a site that is considered a critical area, including, but not limited to a view-shed, habitat or landslide area; and
  - any court ordered enforcement action.

- g. The Director of Business and Community Services will set criteria for determining fines and appeal and administrative fees as appropriate. The Director may adjust the fine depending on the nature of the violation, the violator's history of violations and the violator's cooperation in correcting the violation. The Director may choose from the following options:

- (1) A single fine; or
- (2) A single grace period with no fine assessed unless the violation continues past the expiration of that grace period; or
- (3) A daily fine until the violation has been corrected; or
- (4) A fine schedule established as part of the Hearing Officer's order.

**Multnomah County Ordains as follows:**

**Section 1.** MCC §§ 33.0910, 34.0910, 35.0910, 36.0605, 36.0910 and 38.0910 are amended to read as follows and MCC §§ 33.0915, 34.0915, 35.0915, 36.0915 and 38.0915 are repealed:

**§ 33.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 34.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 35.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**§ 36.0605 Enforcement**

The Director of the Department of Business and Community Services (DBCS) and the Director's delegates shall be responsible for securing the enforcement of the provision of this Ordinance.

**§ 36.0910 Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDC goals and rules applicable to the

County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

## **§ 38.0910      Violations, Enforcement Procedures and Fines**

Multnomah County Code Chapter 37 provides the enforcement procedures and fines for violation of any provision of this chapter, state law; LCDRC goals and rules applicable to the County under ORS 197.646 or the terms and conditions of any permit issued under any County code.

**Section 2.**      MCC Chapter 37 is amended to add §§ 37.0910 – 37.09XX as follows:

## **§ 37.0900\*      VIOLATIONS, ENFORCEMENT AND FINES**

### **§ 37.0910      Definitions**

As used in MCC 37.0910 – 37.09XX, the following words mean:

**Days** - Calendar days, not business days unless specifically provided otherwise.

**Director** - The Director of the Department of Business and Community Services or her/his delegates.

**Hearings Officer Order** - The imposition of a fine according to criteria set by the Director or a decision in the appeal of a Notice of Violation, which shall be signed by the respondent and property owner, if different.

**Notice of Violation** - A written notice given to a person whose action or failure to act constitutes a violation under MCC §§ 37.0915 and the property owner, if different. The Notice shall include assessed fines for such violation and the appeal rights and requirements.

**Person** means:

(1) The owner, title holder, contract seller, contract buyer, possessor or user of the land upon which the violation is occurring; and/or, the person taking the action, or responsible for the conduct or omission which constitutes a violation under MCC § 37.0915;

(2) The United States or agencies thereof, any state or state agency, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof; or

(3) For the purposes of this ordinance, "person" also includes individuals who reside or conduct business or other activities in the unincorporated areas of Multnomah County.

**Respondent** means: The person alleged to have committed a violation or to be responsible for such violation.

### **§37.0915      Violations**

Any use of land, land division or adjustment to property boundaries or other activity by a person in violation of any provision of:

(A) MCC Chapters 33, 34, 35, 36 and 38; §§ 29.001 – 29.011, 29.300 through 29.325 and 29.500 through 29.630; or the terms and conditions of any permit issued under those code provisions; or

(B) Any statute adopted by the Oregon Legislature and those land use planning goals and rules of the Land Conservation and Development Commission (LCDC) that apply directly to the County through ORS 197.646

may be subject to enforcement and fines as provided in this subchapter.

### **§ 37.920      Policy and Purpose**

Multnomah County's policy shall be to seek voluntary compliance in addressing code violations and use an enforcement approach when voluntary compliance fails. The purpose of these code compliance provisions is to implement this policy and provide prompt, effective and efficient enforcement of the County's land use and transportation codes

### **§ 37.0925      Rules; Code Compliance Specialist**

The Director may adopt rules for the administration of the code compliance program.

The Director may appoint one or more Code Compliance Specialists (CCS) for purposes of administering the program. The Director may delegate the duties of the CCS to other staff of DBCS. When an alleged violation is reported to, or discovered by the County, the CCS will evaluate the complaint and conduct a preliminary investigation to identify the priority level of the violation. The CCS will not proceed further if it is determined that there is not sufficient evidence to support the allegation. If it is determined that a violation exists, the CCS will first seek voluntary compliance and may issue a Notice of Violation and fine when voluntary compliance fails.

### **§ 37.0930      Enforcement Levels**

The levels of enforcement are:

- (A) Voluntary compliance;
- (B) Correction Notice;
- (C) Notice of Violation and fine;
- (D) Petition for injunction and other remedies in state court.

### **§ 37.0935      Voluntary Compliance Agreement**

(A) The County may enter into a written voluntary compliance agreement with respondent, and the property owner, if different, before or after a Notice of Violation is issued. The agreement shall include the applicable code provision(s), required corrective action, time limits for compliance, fines if applicable and shall be binding.

(B) The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation.

(C) The CCS will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action.

(D) Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by these provisions, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The CCS may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

#### **§ 37.0940 Notice of Violation, Abatement, Fine and Right to Appeal**

(A) The CCS may issue respondent, and property owner, if different, a Notice of Violation and may require the respondent and property owner, if different, to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The Notice of Violation shall contain: name and address of the person committing the violation and property owner, if different; address or location of the alleged violation; nature of violation, including, County Code provisions, statute or administrative rules section violated; relief sought; department initiating procedure, and the fine to be paid as a result of committing the violation.

(B) Respondent or property owner, if different, may admit the existence of a violation by paying the fine and correcting the violation. Payment of the fine does not relieve respondent or property owner of the requirement to correct the violation.

(C) If the violation is disputed, respondent or property owner may file a written request for an appeal hearing with the CCS within 14 days of the date when the Notice of Violation was served or mailed. Such appeal requests must be accompanied by the appeal fee as indicated in the Notice to help defray the cost of the appeal

(D) Notice of Violation may be served by personal service on respondent and property owner, if different. Notice of Violations may also be served by certified mail, return receipt requested through the United States Postal Service.

(E) The CCS may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code if efforts to secure voluntary compliance have failed.

#### **§ 37.0945 Emergency Enforcement**



If the CCS determines that the violation presents an immediate danger to the public health, safety, welfare or substantial evidence of environmental harm including but not limited to, any discharge of pollutants to waters of the state that cause or contribute to a violation of applicable water quality standards, the CCS may require immediate remedial action. If the CCS is unable to serve a Notice of Violation on the respondent and property owner, if different, or, if after such service, the respondent or property owner refuse or are unable to remedy the violation, the CCS may proceed to remedy the violation by any means available under law, and the County shall be entitled to its reasonable administrative costs and attorney fees.

#### **§ 37.0950      Failure to Appeal**

If the respondent or property owner does not file a written appeal of the violation within 14 days of the date when the Notice of Violation is served or mailed, the CCS shall forward the Notice of Violation to the Compliance Hearings Officer for review and issuance of a final order imposing the fine assessed in the Notice and any administrative fees and costs.

#### **§ 37.0955      Appeal**

##### **(A) Persons Authorized to Appeal Notice of Violation**

- (1) The Notice of Violation may be appealed by the respondent, property owner, the property owner's representative or other person who has been included as part of the Notice of Violation.
- (2) A representative of the property owner must have documentation demonstrating that they are an authorized agent of the property owner.

##### **(B) Notice of Hearing**

- (1) The notice shall contain the time, date, and place of the hearing. A copy of the Notice of Violation and a description of the appeal process and associated rights shall be attached to the notice.
- (2) Notice shall be served on the respondent and property owner, if different, by personal service or certified mailed, return receipt requested at least 15 days prior to the hearing date. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail. Notice will also be provided to surrounding properties within 750 feet of the subject property, complainant if known and other known interested parties.
- (3) Failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this subchapter.

##### **(C) Appeal Hearing**

- (1) Hearings to determine whether a violation has occurred shall be held before the Hearings Officer. The County must prove the violation alleged by a preponderance of the evidence.

(2) The Hearings Officer shall order a person found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such person to do any of the following:

- (a) Obtain any and all necessary permits, inspections and approvals;
- (b) Install any equipment necessary to achieve compliance;
- (c) Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;
- (d) Reimburse the County for actual costs incurred in conjunction with the enforcement action;
- (e) Pay a civil fine for the violation and any fees and costs to the County;
- (f) Pay a reduced fine;
- (g) Undertake any other action reasonably necessary to correct the violation.

(3) The Hearing Officer's order shall be in writing or stated in the record and may be accompanied by an opinion.

#### **§ 37.0960      Enforcement of Hearing Officer Order**

(A) Fines, fees and costs are payable on the effective date of the order and are a debt owed to the County, under ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines, fees or costs are not paid within 60 days after payment is ordered, the County may file and record the order in the County Clerk Lien Record.

(B) The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of the Hearings Officer, including, an action to obtain judgment for any civil fine, fees or costs imposed by such order.

#### **§ 37.0965      Civil Fine**

Violations as defined in MCC 37.0915 may be subject to fines and liens. Fines may be assessed for each violation each day.

(A) Maximum fines shall not exceed \$3,500 for each day of noncompliance; minimum fine shall not be less than \$45 for each day of noncompliance.

(B) The Director shall set criteria for determining the fines, appeal fees and administrative fees as appropriate.

#### **§ 37.0970      Judicial Review.**

Review of the final order of a Hearings Officer under this subchapter by any aggrieved party, including Multnomah County, shall be by writ of review as provided in ORS 34.010 through 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.

Any appeal of a Hearing Officer decision in the National Scenic Area may be reviewed by the Columbia River Gorge Commission.

**Section 3** This ordinance, being necessary to implement new policies and process for outstanding enforcement of land use code violations and for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and the ordinance shall take effect on May 6, 2004, pursuant to section 5.50 of the Charter of Multnomah County.

FIRST READING AND ADOPTION:

May 6, 2004



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

*Diane M. Linn*  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By *Sandra Duffy*  
Sandra N. Duffy, Assistant County Attorney