MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190th Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/landuse

Land Use & Transportation Planning
Planning Commission Agenda

DATE/TIME: **September 13, 2010 @ 6:30 p.m.**
PLACE: **Multnomah County Building, Room 100**
501 SE Hawthorne Blvd., Portland, OR

1. Call to Order
2. Roll Call
3. Approval of Minutes from June 7, 2010 meeting.
4. Opportunity for Public Comment on Non-Agenda Items.
5. Hearing: Zoning Code Amendments for Accessory Alternative Energy Systems PC 10-003
6. Work Session: Zoning Code Improvement, Amendments to Definitions, Consistency of Permit Expiration Provisions, Information Required on Subdivision Plats PC 10-005
7. Work Session: Amendments to EFU Zone Provisions to Implement HB 3099 (2009) PC 10-006
8. Director's comments

If bringing written materials to the meeting, please give the Commission staff twelve copies for the Commission members, staff and permanent record.

INDIVIDUALS WITH DISABILITIES PLEASE CALL THE PLANNING OFFICE AT (503) 988-3043, OR MULTNOMAH COUNTY TDD PHONE (503) 988-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

The next Planning Commission meeting is scheduled for October 4, 2010.

DEPARTMENT OF COMMUNITY SERVICES
LAND USE AND TRANSPORTATION PROGRAM
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF JUNE 7, 2010

I. Call to Order- Chair John Ingle called the meeting to order at 6:30 p.m. on Monday, June 7, 2010, at the Multnomah Building, Room 101, located at 501 S.E. Hawthorne Blvd., Portland, OR.

II. Roll Call- Present- John Ingle, Pat Brothers, Chris Foster, Katharina Lorenz, John Rettig, Michelle Gregory
Absent- Greg Strebin, Julie Cleveland, Bill Kabeiseman

III. Approval of Minutes of May 3, 2010.
Motion by Commissioner Brothers; seconded by Commissioner Lorenz.
Motion passed unanimously.

IV. Opportunity to Comment on Non-Agenda Items.
None.

V. Election of Officers
Brothers nominated Chair Ingle and Vice-Chair Foster to continue as Chair and Vice-Chair respectively. All were in agreement.

VI. Work Session: Zoning Code Amendments for Alternative Energy Systems: PC-10-003
Don Kienholz, Multnomah County Land Use Planner, presented the staff report. Over the last few years, we have received inquiries about residential wind turbines and solar panels in the rural areas for property owners to establish more self-sufficient power sources. Currently, our code does not address wind turbines or solar panels. Staff has typically permitted solar panels as accessory uses under the zoning code, but have not been able to include wind turbines, due to noise and visual impacts.

Staff would like to have clear standards to evaluate the types of alternative energy systems that could be on residential properties. We recommend using the average household energy usage (explained in the staff report) as a threshold, and a 50 ft high maximum threshold as an outright allowed use for wind turbines. It was noted that the City of Portland caps the height at the base zone height limitation. Proposed systems capable of generating above and beyond average usage, or taller than 50 ft, would fall under Type II Accessory Use Determination. Also, rural areas would likely have overlays and natural features that would mitigate the noise and vision concerns.

Staff asked the Planning Commission about developing an outright and review use approach to height, and if the proposed threshold of 50-80 is appropriate. There is no production threshold, because every project would be required to go through an NSA site review, which puts the burden on the applicant to show it is a residential use. However, the Gorge Commission strongly suggested that there be a cap in order to be very clear that it is residential and not industrial or commercial.

Kienholz invited Mike Gross to the table to give some perspective from the commercial side of the industry, obstacles they encounter in getting residential uses approved, and barriers to that.

Mike Gross, Anderson Electric. Mr. Gross said the first obstacle in every county is the 35 foot rule. Another issue is height where the wind is. We have to be 30 feet above any obstacle; otherwise we encounter very poor wind and turbulence, which cuts the life of the turbine. Even with the 50 ft rule, we would be hard-pressed, as the majority of towers will be over 50 ft. The Energy Trust of Oregon (ETO) offers incentive money that requires a different set of guidelines. There has to be a minimum of 1 acre of property, the tower has to be a minimum of 60 feet and a minimum of 10 mph of wind at that height.

I'd like to note that limiting the size of the turbine for residential could be a hindrance. It would be advantageous to have some overproduction that would donate a portion to the grid.

Tim Lynch, Multnomah County Sustainability Program, In addressing height in relation to wind and noise, the higher the tower, the less likely it is to have noise impacts.

Commissioner Brothers asked how these will fit into design standards. I'm hesitant to set a limit on photovoltaic (PV) production amount, I would rather see the limit be on the size of the roof area.

Gross said with PV, there is a limitation on the roof size, because a 12 kW system is not always possible unless it's on the ground.

Commissioner Rettig agreed with Brothers. It would not make sense to establish a production limit. Setting a cap at 12 kW would be unnecessarily limiting.

Lynch offered that ground mounted systems in rural areas should be strongly considered so the 100% or greater threshold could be reached. Under the current net reading program there would be no financial benefit given for generating beyond 100% of use, but would benefit the grid.

Kienholz reminded the Commissioners that the proposed cap is for out right allowed uses on an accessory to the dwelling. The threshold is to determine whether it's an outright building permit process, or a Type II land use. The language was drafted with this in mind, and any issues beyond that would need to be explored further.

Brothers asked if the vertical tip of the blade is factored into the tower height of the turbine. On an 80 ft tower, how big is the blade.

Gross said on a 10 kW turbine, the diameter is 21 ft. If you put that at 80 ft, it would actually sit at 82 ft at the hub, so the total height would be about 92-93 ft. The average generation for a 10 kW turbine, with an average wind speed of 10mph, would be about 16,000 kW hours per year. The higher up you go, it goes up astronomically.

Ingle said what happens with a variance with regard to tower height, when the other party sells.

Keinholz said there would be different options to explore on that issue, such as an easement, or a recorded covenant with the land. Those details would need to be discussed, because it would be an issue for buyers.

Ingle said in looking at various codes from several jurisdictions, what appear to be missing in regards to the wind turbines are the issues of abandonment, and shadowing and flickering.

Commissioner Gregory added that from a legislative standpoint, whatever we adopt should include the caveat to readdress this issue every few years. There will be changes we cannot anticipate, so regulations and incentives should be periodically reviewed. Also, it would be helpful to know how the noise and vibration would affect large breed animals that live in rural areas.

Foster asked if the manufacturer had any studies on noise and the relation to distance.

Gross said that on ARE 442 measured on the ground, a 10 kW machine averages, I believe, between 40-60 decibels. A lot of factors depend on how heavy the air is, how fast the turbine is spinning, but it levels out and shouldn't go higher than about 60 decibels.

In referring to a draft guide, Lynch read that sound decreases 4-fold with every doubling of distance from the turbine, so sound level readings at 25 ft from the top of the tower drop by a factor of four at 50 ft, so there is a significant reduction of noise with a relatively small increase in height or distance.

Ingle said that the noise issue is intriguing, because much of what the Commission deals with is complaint driven, so if it's too noisy or too tall, and someone complains, I would think we would be reluctant to make someone take the tower down. So, at this point, it seems that whatever the manufacturer's noise decibel reading is what would guide the approval process.

Gross said recommended going through the testing lab for more accurate findings on decibel levels.

Gregory asked what the siting standards would be for sharing spaces where multiple property owners wanted to put up two or three towers. Would a variance run with the land or between the parties. And there should be a disclosure aspect of the sale.

Gross said that all the properties involved would be evaluated to decide which property would be best for the turbine as far as orientation ,and where the most efficient energy source would come from.

Commissioner Lorenz asked about the access requirements to the turbine, and whether there are issues with the turbines throwing ice. Gross said access depends on the tower, but generally, as long as you can walk into it. Ice is a non-issue because if they ice up, it stops. Northwind builds a machine that is designed for Antarctica and they don't have an issue with throwing ice.

Gregory asked if they get stuck by lightning. Gross said, they do; but they're grounded very well. On a lattice tower, every leg is grounded, and the system itself is grounded.

Gregory questions the wisdom of having much outright allowance at this stage. Perhaps we should set some outright provisions at another time, because it's so ambiguous right now.

Rettig suggests that as we go forward with these alternate types of energy sources, specifically wind turbines, we should consider waiving some of the visual screening requirements currently

imposed. It wouldn't be beneficial if they restrict the efficiency of the alternate technology we are trying to encourage.

Kienholz asked if the Commission thinks the 50 foot threshold between outright use and review use is acceptable.

Foster thinks they should be reviewed for awhile to get a sense of what's involved before we start regulating them. Gregory felt the same about minimum lot size.

Ingle said it appears that the only thing we haven't addressed yet is the potential impact of noise generated; what approach should staff adopt.

Gross said that although the US is trying to establish an accreditation standard, right now all we can rely on is a noise lab for unbiased readings.

VII. Hearing: CFU Zone Updates PC-10-004

Chair Ingle read into the record the Legislative Hearing Process for the Planning Commission for a public hearing and the process to present public testimony. The Commissioners disclosed no actual or potential financial or other interests which would lead to a member's bias or partiality. There were no objections to the Planning Commission hearing the matter.

George Plummer, Multnomah County Land Use Planner, presented recommended changes to the Commercial Forest Use (CFU) code, and an amendment that will affect the definitions in our land use code. This is intended to reconcile the procedures and standards for reviewing replacement and changes of existing dwellings and new accessory dwellings within 100 ft to make them allowed uses without review.

We are proposing to change the discretionary Type II review for new dwellings and replacement dwellings, and accessory structures located more than 100 ft. from the existing dwelling.

Requested changes to the Setbacks and the Fire Safety Zones Table 1 would allow additions to existing structures and dwellings to maintain the existing setbacks if they are less than 30 ft.

We propose to delete the access standards from the CFU Development Standards and move them to Chapter 29, and amend Development Standards for new dwellings and restored or replacement dwellings located more than 100 feet from the existing dwelling. We also want to add the Lot of Exception option to the Review Uses of the CFU-3 zone that was inadvertently left out and an amendment to add definition for "access easement" to the Rural Plan Area zoning codes.

Ingle closed the public hearing aspect, and asked for a motion from the Commissioners for further deliberation. Gregory made the motion to adopt the housekeeping amendments. Rettig seconded.

Motion passed unanimously.

VIII. Briefing: Springdale and Burlington Rural Community Plans PC-10-009 and PC-10-010

Plummer, Staff Planner, presented the staff report on the Springdale and Burlington Rural Community Plans. These items were on the PC 2010 Work Program to prepare Community Plans

for the unincorporated communities of Burlington and Springdale. Statewide Planning Goals and Guidelines require planning of all unincorporated communities. This planning project was launched at the beginning of the year, and after thorough inventories regarding transportation, infrastructure and land use, it has been determined both communities meet the requirements for a Rural Community designation. We held public meetings for both communities and collected feedback from the residents, and there are two more public meetings planned for June and September.

IX. Director's Comments.

Chuck Beasley, Senior Planner, said in regards to one of the Housekeeping items, expiration provisions. We discovered that we have three sections of our code that contain provisions for expiration permits, with similar standards, so we thought we should examine those and consolidate as appropriate, so we will bring that to you at a later date.

There will be no Planning Commission meetings for the rest of the summer, but we anticipate a full slate for the September meeting.

Meeting adjourned at 8:30 p.m.

The next Planning Commission meeting will be September 13, 2010.

Recording Secretary,

Kathy Fisher

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STAFF REPORT TO THE PLANNING COMMISSION FOR THE PUBLIC HEARING ON SEPTEMBER 13, 2010

PROPOSED ZONING CODE UPDATES RELATED TO ALTERNATIVE ENERGY SYSTEMS AS ACCESSORY USES PERMITTED IN THE ZONE CASE FILE # PC 10-003

PART I. INTRODUCTION

This staff report proposes zoning code amendments to allow alternative energy production facilities on private property as accessory to uses allowed in the zoning district. Planning staff has seen an increase in requests for information on siting solar/voltaic and wind turbine systems in the rural area over the last several years. During that time, the County has found that solar energy systems are allowable as accessory uses and as a policy, processes solar systems as such. However, our code lacks any siting standards that can be applied to such energy production systems. Additionally, wind turbines as accessory uses are not listed specifically in the code and also lack siting standards.

The County currently reviews accessory solar production systems for compliance with the underlying zone setbacks and height requirements only. Visual impacts are not taken into account unless an overlay zone is required for an exterior modification. In the National Scenic Area they are reviewed for compliance with the National Scenic Area Site Review approval criteria which examine and protect cultural, historic, natural and visual resources. Wind turbine systems are processed under a Type 2 Accessory Use Determination. That allows staff to make findings that the proposed systems are residential in nature and accessory to a residence on the property as well as comply with the building height limitations. However, the code lacks standards to address potential impacts associated with wind energy systems such as a fall zone, visual impact and abandonment.

In order to help accommodate solar and wind energy sources for our citizens and support the County's goals to become less reliant on oil, gas and other non-renewable resources, staff is proposing code amendments to provide for alternative energy systems that are accessory to uses allowed in the district with development standards. The proposed changes would alter Chapters 33, 34, 35, 36, and 38 of the zoning code.

PART II. PC WORKSESSION – CODE DEVELOPMENT

Staff proposed zoning code language to the Planning Commission on June 7, 2010. The proposal was based on research into both residential solar and wind turbine systems, information from trade publications, model zoning codes, and the current zoning code from Polk County in Oregon. The Commission and staff also heard information about alternative energy systems from Multnomah County

Sustainability staff and from industry practitioner Mike Gross. Staff received direction from the Planning Commission to move forward with code changes but with some key changes. Key feedback from the commissioners was:

1. We need to address abandonment of systems so that they don't become blight in the rural neighborhoods.
2. We need time to review how the new ordinance works. We'll need to revisit the ordinance in the future to make sure we have it right and also to take into account new technologies.
3. There was a general concern about height – we want to make turbines viable but also don't want to clutter the skyline with them and negatively impact the surrounding neighborhood.
4. Ensure that wind turbines have large enough setbacks so if they fail, surrounding properties are not negatively impacted.

This information, combined with testimony from Tim Lynch of the Multnomah County Sustainability Office and Mike Gross of Anderson Electric was taken into account in development of the proposed zoning code language.

There are two main directions the county could take on how to review alternative energy production for dwellings.

1. Proceed with the original direction which proposed that alternative energy systems would be allowed only accessory to residences with a limit on production output, or;
2. Follow Polk County's approach and define alternative energy production accessory to uses permitted in the zoning district with everything else being considered commercial or industrial.

Option 1 would limit alternative energy systems to dwellings in the rural area and have a two tier review system based on the rating of the system and the height. The first tier would be for Type 1 over-the-counter approvals. The Type 1 approvals would be limited to systems with a rating up to 12kW and under 50-feet tall. Systems with ratings higher than 12kW or more than 50-feet tall would be reviewed as a Type 2 Administrative Decision by the Planning Director as accessory uses to a residence and provide neighbors with a chance to comment on the proposed development. Research and industry input demonstrated that most, if not all, rural wind turbine systems would need to be taller than 50-feet in height, therefore most systems would require a land use decision under this approach.

Option 2 would expand the uses to which an alternative energy production system could be accessory to include all primary uses allowed under the zoning code. For rural property owners, that would mean they could use their photovoltaic system or wind turbine system to power their home, detached garage, pool and/or workshop for example. Such uses, under the code, are accessory to dwellings or support other allowed uses such as a farm. Additionally, Option 2 clearly separates residential scale production from industrial or commercial scaled production. Utilizing the 12kW rating as originally proposed by staff along with the Polk County approach would ensure residentially scaled power production. Indications to staff are that 12kW systems are rather rare for residential properties due to their cost; however the proposed rating could be revisited in the future to see if it needs to be altered.

The second option also does not limit the height of wind turbine systems. The lack of a height limitation may concern some nearby property owners; however the generally large size of rural properties and the requirement of a setback to match the total height of a wind turbine system would provide protection from a falling tower. The height of a wind turbine tower is directly impacted by the need for the higher speed winds at the higher elevations to turn the turbine. The market will also impact the height of a

tower since there is an expense involved in constructing taller towers. Staff expects that land owners will only build a tower as high as is needed due to the cost.

Based on the analysis, staff concludes Option 2 is the best approach. Modeling our ordinance after Polk County's would minimize staff time associated with reviewing alterative energy systems; would reduce the barriers to land owners in obtaining approval for alternative energy systems; would clearly outline the approval criteria for owners; would allow the individual property owner's unique property to dictate the height of a wind turbine; and would provide for adequate protection of neighboring properties due to the typical size of rural properties.

The Planning Commission understands these systems are changing as the technology develops and as they come into more widespread use. Part of the goal is to minimize the land use process while ensuring that systems approved are appropriate for the zone and use on the property. Any issues resulting from the ordinance or discovered after its adoption can be looked at over time and the code language revisited.

Siting Standards

Staff developed siting standards for accessory alterative energy systems to help with their placement and protect surrounding property. Fashioned after Polk County's ordinance, the siting criteria limit the height of solar and voltaic systems on the roofs of homes, but also allow them to be located on ground mounts. For wind turbine systems, there are no height limitations, but the structure must be able to fit on the property with a setback equal to or greater than the height of the tower plus the peak height of the blades. Such a setback will protect adjacent properties from falling towers should they fail. Lighting will be prohibited from towers unless required by state or federal law. The Planning Commission raised concerns of the abandonment of systems once they've been built. Staff added language requiring the land owner to enter into a covenant stating the system will be removed from the property if the system is abandoned, defined as two years of non-use. The county can then enforce on a property should a system be abandoned and not removed.

Alternative Energy Systems In The NSA

Staff recommends a similar approach to alternative energy systems in the National Scenic Area. To ensure compliance with the Management Plan, the proposed code defines non-commercial systems as being rated at no more than 12kW and as accessory to uses permitted in the zoning district. These are uses recognized by the management plan. The 12kW rating ensures that approved systems power only dwellings and residentially scaled structures, such as garages, shops and barns. The proposed accessory alternative energy systems use does not vary from the Management Plan because they can be allowed only if they are providing power to uses permitted in the zone.

Overlay Zones

As with any other structure, accessory alternative energy systems would be subject to the overlay zone regulations they would be located in. For much of the West Hills Rural Area, the Significant Environmental Concern for Scenic Views would require either solar or wind turbines to be reviewed to ensure they are visually subordinate. Likewise, in the National Scenic Area, both types of systems would be subject to Site Review to ensure visual subordinance. In rural areas such as the East of Sandy River Rural Area or the West of Sandy River Rural Area, there are fewer overlay zones that may impact their placement.

PART III. PROPOSED CODE LANGUAGE FOR ALTERNATIVE ENERGY SYSTEMS AS ACCESSORY USES TO DWELLINGS

Proposed code changes are shown by the following:

- Language shown by ~~Strikethrough~~ is proposed to be deleted
- **Underlined and bold** language is proposed to be added
- Staff comments, if needed, are noted by indentation and ***bold italic font.***
- Three asterisks * * * show where code parts are left out.

A. Amend the Definitions Section of Chapters 33, 34, 35 and 36 to include the new zoning code provision below.

MCC 33.0005 Definitions [The same changes are proposed for MCC 34.0005, 35.0005, and 36.0005]

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

B. Add the proposed Alternative Energy System code amendments below to the following code sections:

MCC 33.2020	Commercial Forest Use-1
MCC 33.2220	Commercial Forest Use-2
MCC 33.2420	Commercial Forest Use-5
MCC 33.2620	Exclusive Farm Use
MCC 33.2820	Multiple Use Agriculture-20
MCC 33.3120	Rural Residential
MCC 33.3320	Rural Center
MCC 34.2620	Exclusive Farm Use
MCC 34.2820	Multiple Use Agriculture-20
MCC 34.3120	Rural Residential
MCC 34.3320	Rural Center
MCC 35.2020	Commercial Forest Use-3
MCC 35.2220	Commercial Forest Use-4
MCC 35.2620	Exclusive Farm Use
MCC 35.3120	Rural Residential
MCC 35.3320	Rural Center
MCC 36.2020	Commercial Forest Use
MCC 36.2620	Exclusive Farm Use

MCC 36.3120	Rural Residential
MCC 36.3320	Pleasant Home Rural Center
MCC 36.3420	Orient Rural Center Residential
MCC 36.3520	Orient Commercial-Industrial

*** * ***

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

1. **All systems shall meet the following requirements:**
    a. **The system is an accessory alternative energy system as defined in MCC 33.0005;**
    b. **The system meets all overlay zone requirements;**
    c. **The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;**
    d. **The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for two consecutive years are considered abandoned;**

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

3. **Wind Turbine Systems:**
    a. **Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;**
    b. **No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency;**
    c. **The color of a wind turbine and tower shall be dark green, black or grey unless otherwise required by state or federal law;**

C. Amend the Chapter 38 Definitions Section of the Columbia River Gorge National Scenic Area Zoning Code to Add the New Definition Below.

MCC 38.0015 - **Accessory Alternative Energy System:**
A system accessory to a primary structure or use that converts energy into a usable form such as electricity, and conveys that energy to uses allowed on the same tract as the primary use. Accessory Alternative Energy Systems typically convert mechanical energy into electrical energy. An Accessory Alternative Energy System is a solar, photovoltaic or wind turbine structure, or is composed of multiple structures, that individually or together have a total rating capacity of up to 12kW.

* * *

D. Add the proposed Alternative Energy System code amendments below to the following code sections:

MCC 38.2025(A)	Gorge General Forest
MCC 38.2225(A)	Gorge General Agriculture
MCC 38.2425	Gorge General Rural Center
MCC 38.2625(A), (B) & (C)	Gorge General Open Space (GGO, GGO-GW, GGO-SP)
MCC 38.2825(A) & (B)	Gorge General Recreation (GG-PR, GG-CR)
MCC 38.3025(A)	Gorge General Residential
MCC 38.3225	Gorge General Commercial

* * *

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

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

a. For all systems:

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

2. The system meets all overlay zone requirements;

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

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

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

c. For wind turbine systems:

1. **They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 et al.;**
2. **No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 et al;**
3. **A wind turbine and tower shall be a color that is consistent with the NSA Site Review criteria of 38.7035;**

*** * ***

E. Add the proposed Alternative Energy System code amendments below to the following code sections:

MCC 38.2025(B)	Gorge Special Forest
MCC 38.2225(B)	Gorge Special Agriculture
MCC 38.2625(D)	Gorge Special Open Space
MCC 38.2825(C)	Gorge Special Recreation
MCC 38.3025(B)	Gorge Special Residential

*** * ***

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

a. For all systems:

1. **They are not a commercial power generating facility such as a utility;**
2. **The system meets all overlay zone requirements;**
3. **The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;**
4. **The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for two consecutive years are considered abandoned;**

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

c. For wind turbine systems:

1. **They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et al.;**
2. **No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al;**
3. **A wind turbine and tower shall be a color that is consistent with the NSA Site Review criteria of 38.7040 et al;**

BEFORE THE PLANNING COMMISSION
for MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC-10-003

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

The Planning Commission of Multnomah County Finds:

a. The Planning Commission is authorized by Multnomah County Code Chapters 11.05, and 33 through 38, to recommend to the Board of County Commissioners the adoption, revision, or repeal of regulations intended to carry out all or part of a plan adopted by the Board.

b. The County Framework Plan Policy 22: Energy Conservation, supports energy conservation and reduction in the use of non-renewable energy, and efforts to allow greater flexibility in the development and use of renewable energy resources.

c. The provisions in MCC Chapters 33, 34, 35, 36, and 38 should be amended to include limited Alternative Energy Production Systems as accessory to uses permitted in the zoning district. Such systems support the County's goals and values to be promote less dependence on non-renewable resources while encouraging land owners to be more sustainable.

d. No regulations are being proposed that further restrict the use of property and no mailed notice to individual property owners is required ("Ballot Measure 56 notice").

e. Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages.

The Planning Commission of Multnomah County Resolves:

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

ADOPTED this 13th day of September, 2010.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

_____
John Ingle, Chair

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STAFF REPORT TO THE PLANNING COMMISSION
FOR THE
WORK SESSION ON SEPTEMBER 13, 2010

ZONING CODE IMPROVEMENT, AMENDMENTS TO DEFINITIONS, CONSISTENCY OF PERMIT EXPIRATION PROVISIONS, INFORMATION REQUIRED ON SUBDIVISION PLATS CASE FILE #PC 10-005

PART I. INTRODUCTION

Staff identified four areas in the Multnomah County Code (MCC) that need clarification in the form of code amendments for this work plan task. Changes are needed to the definition of development, information required on a final plat, the expiration and extension of Type II or Type III decisions, and expiration of prior land use decisions. Following is a summary of the issue, the code reference, and suggested solutions for these tasks.

PART II. DEFINITION OF DEVELOPMENT

Definition of Development:
The definition of development needs to be consistent throughout the MCC. In the definition section for rural area plan chapters the definition reads as follows, "Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative."

The solution is to add the word "removal" to the definition of Development where needed.

Apply to the following code sections, MCC 11.15.0010, MCC 33.0005, MCC 34.0005, MCC 35.0005, and MCC 36.0005:

~~Strikethrough~~ – delete
Double Underline – Add

Development – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative removal.

PART III. INFORMATION REQUIRED ON FINAL PLAT

Information Required on Subdivision Plat or Partition Plat:

Final subdivision and partition plats are required to depict the normal floodplain or high water line for any creek or other body of water or natural drainageway, and the 100-year flood line of any major body of water on the subdivision or partition plat. This type of information is no longer allowed to be shown on the final plat according to the County Surveyor, Jim Clayton State law prohibits informational boundaries on the final plat. Mr. Hovden states that this code requirement conflicts with state law and that we should amend it.

Staff recommends amending the code to require a separate surveyed map, depicting high-water or flood boundary information to be submitted to the planning office along with the final plat:

Apply to the following code sections: MCC 11.45.710, MCC 33.8020, MCC 34.8020, MCC 35.8020, MCC 36.8020, and MCC 38.8020.

~~Strikethrough~~ – delete
Double Underline – Add

XX.8020 INFORMATION REQUIRED ON SUBDIVISION PLAT OR PARTITION PLAT

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

(A) Corners of adjoining subdivisions or partitions.

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

(C) Any plat that is located in areas that contain areas of ~~N~~normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body~~.~~ shall include a plat note indicating that portions of the plat are subject to flooding and/or high water.

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

(E) Other certifications required by law.

Apply to the following code sections: MCC 33.8025, MCC 34.8025, MCC 35.8025, MCC 36.8025 and MCC 38.8025.

XX.8025 SUPPLEMENTAL INFORMATION WITH SUBDIVISION PLAT OR PARTITION PLAT

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

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

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

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

(D) A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition that depicts the normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.

Apply to the following code sections:

11.45.720

11.45.720 Supplemental Information with Subdivision Plat or Partition Plat
The following shall accompany the subdivision plat or partition plat, as appropriate:

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

B. A copy of any dedication requiring separate documents.

C. A copy of the future street plan, when required, as recorded according to MCC 11.45.170(A).

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

E. A map, prepared by an Oregon licensed surveyor, of the subdivision plan or partition that depicts the normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.

PART IV. EXPIRATION AND EXTENSION OF TYPE II OR TYPE III PERMITS

Clarify development action and expiration of permit:

MCC 37.0690, MCC 37.0700, MCC 37.0750, MCC 38.0690, MCC 38.0700, and MCC 38.0750 all contain differing provisions that apply to expiration and extension of approvals. Staff proposes to consolidate and standardize the provisions in all three sections where appropriate to make the code easier to implement. There is also a need for standard definition of terms such as initiation of action.

The clarity that is needed is to define when a development or use is implemented to the point that a project can continue under the approval and is no longer in danger of expiring under the prescribed expiration date. Staff believes that the National Scenic Area Code at 38.0690 and 38.0700 is generally clearer and may provide useful guidance in this area.

Staff has considered how to do this, and is working on code changes that add clarity to these sections without changing existing requirements. The attached comparison table demonstrates those areas of the code that are similar throughout the relevant code sections and those areas that are unique. The goal is to provide a single, easy-to-read code section in Chapters 37 and 38 that are materially consistent.

One similarity that exists in all of the listed sections is the following text: "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." It is more logical to have this text show up just once in both Chapter 37 and Chapter 38 as it is applicable in all cases. Chapter 38 distinguishes between approvals for structures and approvals for uses. This concept should be carried over to Chapter 37. Some differences should remain such as the different expiration dates for approvals in EFU and CFU zones, which result from state statute.

The extension provisions have several similarities but differ in some key areas such as whether the extension is a Type I or Type II process, whether the extension is good for 1 year or six months, and whether more than one extension can be applied for.

PART V. EXPIRATION OF A LAND USE DECISION

Refine Expiration of Permit to apply to unimplemented development:
Under expiration of prior decisions, add the "unimplemented" concept to clarify that this code section doesn't apply to all decisions issued, only to decisions where there has been work that is not substantial enough to vest the approval. In order to maintain consistency, the suggested text in the added sections may change when the Code sections in Part IV above are reworked.

Chapter 37:

Recommendation for the addition of new subsection A:

Apply to the following code sections:

~~Strikethrough~~ – delete
Double Underline – Add

MCC 37.0750

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) The development, use, or action was initiated in accordance with the authorizing County permit, all associated permits were obtained and are currently valid or have been finalized (including, but not limited to building, sanitation, and grading permits).

(~~A~~B) A different timeframe was specifically included in the decision, or

(~~B~~C) 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).

Chapter 38:

Recommendation for the addition of subsections A and B:

Apply to the following code sections:

~~Strikethrough~~ – delete
Double Underline – Add

MCC 38.0750

38.0750 EXPIRATION OF PRIOR LAND USE DECISIONS.
All land use decisions authorized prior to March 19, 2001 (Ord. No. 953 & Ord. 997) shall expire on March 19, 2003, unless: ~~a different timeframe was specifically included in the decision.~~

(A) The development, use, or action was initiated in accordance with the authorizing County permit, all associated permits were obtained and are currently valid or have been finalized (including, but not limited to building, sanitation, and grading permits).

(B) A different timeframe was specifically included in the decision.

Attachments:
1. Code Comparison Table

Code Comparison Table of Chapter 37 and Chapter 38

for the purpose of analyzing the concepts of implementation and expiration of an approval

Expiration of Approvals			
(Ch. 38 - National Scenic Area) **38.0690** **EXPIRATION OF A TYPE II OR TYPE III DECISION**	**(Ch. 37 – Administration and Procedures)** **37.0690** **EXPIRATION AND EXTENSION OF A TYPE II OR TYPE III DECISION IN EFU AND CFU ZONES**	**(Ch. 37 – Administration and Procedures)** **37.0700** **EXPIRATION AND EXTENSION OF TYPE II OR TYPE III DECISIONS IN EXCEPTION AREAS AND LANDS WITHIN THE UGB**	**NOTES**
(A) Any Type II or Type III land use approval issued pursuant to this Chapter for a use or development that does not include a structure shall expire two years after the date of the final decision, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established' means the final deed or plat has been recorded with the county recorder or auditor.	(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:	(A) All Type II and Type III approvals automatically become void if any of the following events occur:	Expire, void, after 2 years – same Established, initiated (reconcile language) EFU/CFU extensions to 4 years (no change)
(B) Any Type II or Type III land use approval issued pursuant to this Chapter for a use or development that includes a structure shall expire as follows:	…	(1) If, within two years of the date of the final decision, all necessary building permit(s) have not been issued, if required; or	
(1) When construction has not commenced within two years of the date the final decision, or	(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.	(2) If, within two years of the date of the final decision, the development action or activity approved in the decision is not initiated or, in situations involving only the creation of lots or property line adjustments, the final survey or plat has not been approved by the Planning Director and recorded.	Provisions for structures For other uses (development action, actual) LD and PLA (Recording Language)
(2) When the structure has not been completed within two years of the date of commencement of construction.	(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.	(B) Notwithstanding Subsection (A) of this section, on exception lands the decision maker may set forth in the written decision, specific instances or time periods when a permit expires.	Commencement of construction NSA (initiation defined) not in other sections – they require permit issuance or "initiation" Define initiation where structure is involved as in NSA. Define approvals that do not involve a structure as in NSA "Established"
(3) As used in (B)(1), commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.	(2) The provisions in (B) and (C) shall only apply to residential development for which a decision of approval:	…	
(4) As used in (B)(2), completion of the structure shall mean:	(a) Was valid (not expired) on January 1, 2002, or	(E) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.	
(a) completion of the exterior surface(s) of the structure and	(b) Was issued after January 1, 2002 (the effective date of Senate Bill 724, 2001).	(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the County. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).	
(b) compliance with all conditions of approval in the land use approval.	(3) For the purposes of this section, "residential development" only includes dwellings as provided for under:		
(C) Expiration under (A) or (B) above is automatic. Failure to give notice of expiration shall not affect the expiration of a Type II or III approval.	…		

(Ch. 38 - National Scenic Area) **38.0690** **EXPIRATION OF A TYPE II OR TYPE III DECISION**	(Ch. 37 – Administration and Procedures) **37.0690** **EXPIRATION AND EXTENSION OF A TYPE II OR TYPE III DECISION IN EFU AND CFU ZONES**	(Ch. 37 – Administration and Procedures) **37.0700** **EXPIRATION AND EXTENSION OF TYPE II OR TYPE III DECISIONS IN EXCEPTION AREAS AND LANDS WITHIN THE UGB**	
(D) Consistent with subsection (A) of this section, the decision maker may set forth in a written decision, specific instances or time periods when a permit expires.	(D) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.		
(E) New application required. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.	(E) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the County. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).		
(F) Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the County, the expiration period shall not begin until all subsequent appeals are resolved. 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).			
(G) The laws of the State of Oregon concerning vested rights shall not apply in the Columbia River Gorge National Scenic Area. A person has a vested right for as long as the land use approval does not expire.			

Extensions of Approvals

(Ch. 38 - National Scenic Area) **38.0700** **EXTENSION OF TYPE II OR TYPE III DECISIONS**	(Ch. 37 – Administration and Procedures) **37.0690** **EXPIRATION AND EXTENSION OF A TYPE II OR TYPE III DECISION IN EFU AND CFU ZONES**	(Ch. 37 – Administration and Procedures) **37.0700** **EXPIRATION AND EXTENSION OF TYPE II OR TYPE III DECISIONS IN EXCEPTION AREAS AND LANDS WITHIN THE UGB**	
(A) Any request for an extension shall be reviewed and decided upon by the Planning Director as a Type I decision.	(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:	…	
(B) A request for extension of the time frames in §38.0700 (D)(1), (D)(2), and (E) shall be submitted in writing before the applicable expiration date.	(1) An applicant makes a written request for an extension of the development approval period;	(C) The Planning Director may extend any approved decision for a period of six months up to an aggregate period of one year; provided, however, that there has been substantial implementation of the permit and the request is submitted prior to the expiration of the approval period. Any request for an extension shall be reviewed and decided upon by the Planning Director as a Type II decision.	
(C) Approval or denial of a request for extension shall state the reason why events beyond the control of the applicant warrant an extension.	(2) The request is submitted to the county prior to the expiration of the approval period;	(D) Substantial implementation of a permit shall require at a minimum, for each six month extension, demonstrable evidence in a written application showing:	
(D) The Planning Director may grant one 12-month extension to any approved decision if it determines that events beyond the control of the applicant prevented:	(3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and	(1) The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit;	
(1) The commencement of the use or development within two years of the decision for a land use approval that does not include a structure; or	(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.	(2) Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder;	

(Ch. 38 - National Scenic Area) **38.0700** **EXTENSION OF TYPE II OR TYPE III DECISIONS**	(Ch. 37 – Administration and Procedures) **37.0690** **EXPIRATION AND EXTENSION OF A TYPE II OR TYPE III DECISION IN EFU AND CFU ZONES**	(Ch. 37 – Administration and Procedures) **37.0700** **EXPIRATION AND EXTENSION OF TYPE II OR TYPE III DECISIONS IN EXCEPTION AREAS AND LANDS WITHIN THE UGB**	
(2) commencement of construction within two years of the decision for a land use approval issued for a use or development that includes a structure.	(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.	(3) The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition thereunder; and	
(E) The Planning Director may also grant one 12-month extension if it determines that events beyond the control of the applicant prevented the completion of the structure within two years of the date of the commencement of construction for a land use approval that includes a structure, when the structure has been commenced.	(6) Additional one year extensions may be authorized where applicable criteria for the decision have not changed.	(4) There have been no changes in circumstances or the law likely to necessitate significant modifications to the approval.	
	…		
	(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.		

Expiration of Prior Land Use Decisions

(Ch. 38 - National Scenic Area) **38.0750** **EXPIRATION OF PRIOR LAND USE DECISIONS**	(Ch. 37 – Administration and Procedures) **37.0750** **EXPIRATION OF PRIOR LAND USE DECISIONS**		
All land use decisions authorized prior to March 19, 2001 (Ord. No. 953 & Ord. 997) shall expire on March 19, 2003, unless a different timeframe was specifically included in the decision.	All land use decisions authorized prior to January 1, 2001 (Ord. 953 & Ord. 997) shall expire on January 1, 2003, unless:		
	(A) A different timeframe was specifically included in the decision, or		
	(B) The decision was for "residential development," as specified in MCC 37.0690(B)(3), which have the expiration timeframes of MCC 37.0690(B) and (C).		

Red Highlighted Text = Found only in NSA code

Other Highlighted Colors = Same or similar provision found in two or more places throughout the five code sections.

Questions to consider:

1. Can all extensions be either Type I or Type II as opposed to the current mix we have now?
2. Can the extensions listed in 37.0690(A) and 37.0700(C) both be for one year for consistency?
3. 37.0690(A)(6) allows for unlimited extensions if no changes to the approval criteria have occurred. Do we want to keep this provision? If so, expand to any other code sections?

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STAFF REPORT TO THE PLANNING COMMISSION FOR THE WORKSESSION ON SEPTEMBER 13, 2010

PROPOSED ZONING CODE AMENDMENTS TO IMPLEMENT ENACTMENT BY THE 2009 STATE LEGISLATURE OF HB 3099 CASE FILE # PC 10-006

PART I. INTRODUCTION

The 2009 Legislature amended statutes that regulate uses in Exclusive Farm Use (EFU) zones by adoption of HB 3099. LCDC amended the Division 33 Administrative Rules effective January 1, 2010, to implement the legislation. This staff report introduces conforming amendments to the zoning code for the Planning Commission to consider and recommend to the Board for adoption. The changes to the farm statutes in HB 3099, as described by legislative staff:

> W**HAT THE MEASURE DOES:** Modifies exclusive farm use (EFU) exceptions in Oregon land-use regulation. Removes outright exceptions for schools and greyhound kennels. Modifies exception for model aircraft uses to allow landowners to charge fees. Adds conditional exception for public schools that primarily serve the rural area where sited. Modifies the conditional exception for golf courses by prohibiting golf courses on high value farmland. Deletes disposal of solid waste from EFU exceptions. Allows expansion of existing public schools, private schools on EFU lands that become nonconforming uses, notwithstanding change in zoning ordinance. Provides exception to notice otherwise required from Department of Land Conservation and Development. Authorizes counties to amend land use regulations by December 31, 2010 to conform to bill without public hearing and adoption of findings.

Staff notes that the legislation provided a process that allows counties to make conforming amendments to zoning codes without public hearings or adoption of findings, provided the amendments are limited to implementing HB 3099, and that they are complete this calendar year. We are nevertheless taking the amendments through our existing legislative amendments process which provides hearings and public notice.

The legislation also makes changes that allow counties greater flexibility when evaluating schools and golf courses. There are two main categories of land uses in the Exclusive Farm Use statutes in ORS 215.283(1) and (2). Under an Oregon Supreme Court decision in Brentmar v. Jackson County, 321 Or 481, 900 P2d 1030 (1995) those uses listed in 215.283

section (1) are required to be allowed and they are subject only to state regulations that limit or allow the use. The land uses listed in 215.283 section (2) are optional for a county, the county may choose to not include those land uses in their Zoning Code, and are allowed to add local approval criteria and conditions of approval.

This staff report is organized into the parts listed below. In addition, staff included two attachments to the staff report. Attachment A is a table listing the state and county standards that became applicable to schools. Attachment B is a table that lists the most relevant provisions of HB 3099 (Oregon Laws Chapter 850), along with notation of the change needed to the MCC. The complete text of Chapter 850 is available on the web pages at: http://www.leg.state.or.us/09orlaws/sess0800.dir/0850.htm The zoning code citations in both Parts II and III are to MCC Chapter 33, however conforming amendments to Chapters 34, 35, and 36 will also be required.

II. Changes to Allowed and Review Uses in EFU Districts
III. Changes to Conditional Uses

PART II. CHANGES TO ALLOWED AND REVIEW USES in EFU DISTRICTS

This section deals with changes HB 3099 and OAR Division 33 made to EFU regulations applicable to uses the MCC lists as allowed and subject to administrative review.

- Deleted schools from 215.283(1) allowed use (moved to CU).
- Changed model aircraft facilities in 215.283(1) to allow rent and fees to be charged.
- Minor changes to the language for wetland enhancement projects.
- Deleted breeding, kenneling of greyhounds from 215.283(1) allowed use.
- Deleted solid waste disposal sites from 215.283(1) allowed use.

Staff notes that neither the greyhound nor the solid waste disposal site uses were added to the allowed and review uses sections of the MCC, therefore no changes are needed to these uses.

A. The use, public and private schools, including all buildings essential to the operation, is deleted from ORS 215.283(1) and moved to 215.283(2). The effect is to remove schools from the list of uses that counties must allow, and for which counties can only apply state criteria in decisions to allow or not allow them. The result is that counties can add regulations that apply to decisions for schools, and can choose to not allow them. For purposes of amending the allowed uses section of the MCC, the result is to delete the use. Further discussion of changes needed to implement the K – 12 schools use is included in Part III of this report.

Delete 33.2620(N) and move the use to conditional use section.

§ 33.2620 Allowed Uses

* * *

B. The model aircraft use was amended in ORS 215.283(1) to include provision to allow the landowner of a site to charge an operator a fee, and limits the amount and operator can charge users to certain costs.

Amend MCC 33.2620(V) to incorporate new provision.

§ 33.2620 Allowed Uses

* * *

(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. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. 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.

C. The minor change in ORS 215.283 to wetland enhancement projects removes "of'" in two places. Amend subsection (K) to remove "of."

§ 33.2625 Review Uses

* * *

(K) Creation, restoration or enhancement of wetlands.

D. The use, breeding, kenneling, and training of greyhounds for racing, listed under MCC 33.2625(G) is deleted as an allowed/review use. Dog kennels are allowable as Conditional Use in MCC 33.2630(J).

§ 33.2625 Review Uses

Part III. CHANGES TO CONDITIONAL USES

Deleted: (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 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC 33.7060 and MCC 33.7450.¶
¶
(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.¶

Deleted: of

Deleted: of

Deleted: (G) 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 33.7060; and¶
(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.¶
¶

This section of the staff report considers changes HB 3099 and OAR Division 33 made to EFU regulations applicable uses the MCC lists as allowable subject to Conditional Use approval. The act:

- Amends schools use to add limitation that it primarily serve the rural area, adds other criteria.
- Changes the dog kennels use to eliminate reference to greyhound kennels that were removed as allowed uses.
- Includes a provision not incorporated into ORS that cites nonconforming use statutes regarding alteration of schools not allowed due to change in HB 3099.
- Limits golf courses to non-high value farmland.

Staff notes that golf courses are not listed as allowable in MCC EFU zones, therefore no changes are needed to these uses. The MCC currently allows maintenance, enhancement, or expansion of schools in EFU zones as an allowed use, but does not allow new schools, even as conditional uses. Staff has included a discussion of the schools use in Part III. A. so that the Planning Commission can consider whether to add rural schools allowable conditional uses in EFU zones, and to consider the nonconforming use provisions included in HB 3099 but not added to statute.

Staff is also proposing amendments to uses related to the provisions in HB 3099, but not specifically changed by that legislation. The first, in Part III.B., is to amend the Community Service use criteria to incorporate the same farm compatibility language that is used in statute. The second improves the temporary health hardship dwelling use to remove a redundant provision and better align replacement provisions with state law (see Part III.C).

A. The changes to regulations affect both new schools and expansion of existing schools, and consider additional elements of school sites including relationship to the UGB and high-value farmland. Subsequent to passage of HB 3099, LCDC adopted administrative rules. Please refer to the table in Attachment A that lists the rule requirements for each potential use description. As indicated above, the MCC does not allow new schools in EFU zones, but it does allow expansion of existing schools. The amendments in HB 3099 changed the use description to read:

> ORS 215.283(2)
> *(aa) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.*

The Planning Commission can consider whether to add new schools that meet this description to the list of uses allowed conditionally in EFU zones. In addition, it is worth considering a definition for a primarily rural school. Staff believes that a definition that measures where the student population resides is a workable approach. For example, a rural school could be defined as one where at least 51% of the students live in areas outside of UGB. Staff is interested to hear whether the Planning Commission supports this approach, and/or whether a different definition or other elements should be included.

Expansion is allowed in the existing code subject to standards in the OAR, and county parking, yard, sign, and design review provisions. The new statute moves schools to the list of uses in ORS 215.283(2), thereby allowing the county to consider additional standards applicable to the use, and to continue to not allow new facilities in these zones. HB 3099 also imposes the farm compatibility standards as applicable to expansion of existing schools. The existing MCC is listed below. The farm compatibility standards are shown in Attachment B under Section 14(1)(b) on page 3. Please also refer to the table in Attachment A for provisions that should be added to the MCC as applicable to expansion of schools.

MCC 33.2620 – Existing code provides:
(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 33.4215, MCC 33.6020 (A), MCC 33.7000 through MCC 33.7060 and MCC 33.7450.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

The revised regulations will potentially affect the two existing school facilities in the county on EFU zoned land. On the east side, there is an existing school on EFU zoned land adjacent to the city of Troutdale, at the Open Door Baptist Church. The other is Skyline School. Both of these are within 3 miles of the UGB, are likely "urban" schools, and are on high-value farmland. Skyline School exceeds the design capacity for schools within 3 miles of the UGB, and staff thinks the east side school exceeds those standards as well.

In addition to adding the provisions in Attachment A to the MCC, staff understands that clarification of the requirements imposed in Section 14 of the legislation is needed (see Attachment B page 3). These provisions are applicable to expansion of non-conforming schools and may require direction in the MCC to the standards that must be included in those reviews. Given the location of the two facilities in the county that are both within 3 miles of the UGB, understanding of the effect of the related statutes is important, and staff is continuing to clarify this.

B. Staff recommends amending the Community Service Use criteria to incorporate the farm/forest compatibility criteria already in state statutes. Language that incorporates the

state provisions is already incorporated in the Conditional Use criteria in MCC 33.6010. Incorporating those standards in MCC 33.6315 (3)(a),(b) will properly implement the farm/forest compatibility standards of ORS 215.296.

Amend the Community Service use criteria in MCC 33.6010 to incorporate the same farm/forest compatibility standards in MCC 33.6315(3)(a) and (b) and ORS 215.296.

§ 33.6010 Approval Criteria

* * *

(C) Will not conflict with farm or forest uses in the area:

(1) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(2) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

C. Staff recommends amending the health hardship dwelling use to remove redundant language and to address an apparent additional hardship imposed by the code although no change is required by HB 3099. The farm compatibility paragraph shown in strike out in subsection (H) is redundant for this use because it repeats the already applicable Conditional Use criteria in MCC 33.6315(3), shown in italics below. Temporary hardship dwellings are already subject to this provision, therefore inclusion of that standard in the use description is redundant.

During review of the temporary hardship use description, staff noted that the code limits replacement of these dwellings to a greater extent than state rules. The state and county code prohibit replacement of these dwellings as permanent dwellings in MCC 33.2620(L). However, the MCC adds limitations not in state rules that prohibit replacement of farm use dwellings that are historic properties under (J), and to replacement of casualty loss dwellings in (M) (provisions in *italic* below). Replacement of historic dwellings is allowed by other provisions and does not appear connected to temporary manufactured hardship dwellings. Regarding whether a casualty loss dwelling should not be replaceable if it is a temporary hardship dwelling, the county has a policy choice. The current code provision in (M) would require a person with a hardship dwelling to obtain conditional use approval to replace the dwelling. However, the dwelling is on the property under a provisional conditional use permit and could be allowed pursuant to those provisions.

Amend the health hardship use to delete reference to historic and casualty loss dwellings, and to remove redundant reference to conditional use criteria.

§ 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:

* * *

(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. 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 (L), 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.

Deleted: (J),

Deleted: , and (M)

Deleted: 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.¶

MCC 33.6315 Conditional Use Approval Criteria

(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.

MCC 33.2630

(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.

(M) Replacement of an existing lawfully estab-lished single family dwelling on the same lot not more than 200 feet from the original build-ing site when the dwelling was unintentionally destroyed by fire, other casualty or natural dis-aster. The dwelling may be reestablished only to its previous nature and extent, and the reestab-lishment shall meet all other building, plumb-ing, 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.

D. Delete the reference to the greyhound facilities previously allowed as review uses so as to conform to the change in HB 3099.

§ 33.2630 Conditional Uses

* * *

(J) Dog kennels. 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.

Deleted: not described in section MCC 33.2625(G)

Standards Applicable to New and Expansion of Existing Schools in EFU in OAR 660-033-0130

New rural schools not on HV farmland[1]	**Expansion** of existing urban schools on HV farmland	**Expansion** of existing rural schools on HV farmland.	**Expansion** of existing rural schools non-HV farmland	**Expansion** of existing urban schools non-HV farmland
MCC .6010 CS approval criteria[2], design review, parking, signs	MCC .6010 CS approval criteria, design review, parking, signs	MCC .6010 CS approval criteria, design review, parking, signs	MCC .6010 CS approval criteria, design review, parking, signs	MCC .6010 CS approval criteria, design review, parking, signs
	(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. (b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a use formerly allowed pursuant to ORS 215.283 (1)(a), as in effect before the effective date of 2009 Or Laws Chapter 850, section 14, may be expanded subject to: (A) The requirements of subsection (c) of this section; and (B) Conditional approval of the county in the manner provided in ORS 215.296. (c) A nonconforming use described in subsection (b) of	(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.		(18) (b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a use formerly allowed pursuant to ORS 215.283 (1)(a), as in effect before the effective date of 2009 Or Laws Chapter 850, section 14, may be expanded subject to: (A) The requirements of subsection (c) of this section; and (B) Conditional approval of the county in the manner provided in ORS 215.296. (c) A nonconforming use

New rural schools not on HV farmland[1]	**Expansion** of existing urban schools on HV farmland	**Expansion** of existing rural schools on HV farmland.	**Expansion** of existing rural schools non-HV farmland	**Expansion** of existing urban schools non-HV farmland
	this section may be expanded under this section if: (A) The use was established on or before January 1, 2009; and (B) The expansion occurs on: (i) The tax lot on which the use was established on or before January 1, 2009; or (ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and that was owned by the applicant on January 1, 2009.			described in subsection (b) of this section may be expanded under this section if: (A) The use was established on or before January 1, 2009; and (B) The expansion occurs on: (i) The tax lot on which the use was established on or before January 1, 2009; or (ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and that was owned by the applicant on January 1, 2009.
OAR (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.	OAR (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.	OAR (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.	OAR (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.	OAR (2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

New rural schools not on HV farmland[1]	**Expansion** of existing urban schools on HV farmland	**Expansion** of existing rural schools on HV farmland.	**Expansion** of existing rural schools non-HV farmland	**Expansion** of existing urban schools non-HV farmland
(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of the effective date of this section.	(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of the effective date of this section.	(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of the effective date of this section.	(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of the effective date of this section.	(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of the effective date of this section.

Notes:

1. New schools, either urban or rural, are not allowed on HV farmland.
2. Required standards include the farm compatibility test in 215.296, that is incorporated in MCC 33.6315(3)(a),(b). These criteria need to be added to the CS criteria in 33.6010(C)).

HB 3099 (2009) Selected changes to ORS in Oregon Laws Chapter 850

Amends statute	Statute language: Bold type is new language, italics shows deleted text. Unchanged Oregon Laws Chapter 850 provisions not included.	MCC Requirement
197.065 A c.850 §3 (HB 3099)		**None** changes citations for dwelling reporting requirements by DLCD
215.283 A c.850 §2 (HB 3099)	(1) The following uses may be established in any area zoned for exclusive farm use: [*(a) Public or private schools, including all buildings essential to the operation of a school.*]	Amends MCC .2620(N) by moving to CU
	[*(i) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.*]	Not allowed in current code
	[*(j) The breeding, kenneling and training of greyhounds for racing.*]	Amends MCC .2625(G) by moving to CU as "dog kennels"
	[*(p)*] **(m)** Creation, [of] restoration [of] or enhancement of wetlands.	Amend MCC .2620(K) to remove of's
	[*(t)*] **(q)** 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	Amend MCC .2620(V) to add bold language.

Amends statute	Statute language: Bold type is new language, italics shows deleted text. Unchanged Oregon Laws Chapter 850 provisions not included.	MCC Requirement
	under this paragraph. **An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.** 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. (1) 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: (f) Golf courses **on land determined not to be high-value farmland, as defined in ORS 195.300**. (L) 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. 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. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under subsection [*(1)(s)*] **(1)(p)** of this section. (n) Dog kennels [*not described in subsection (1)(j) of this section*]. **(aa) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.**	None, Use not listed in EFU Replacement of dwellings in MCC .2630(H) not allowed in .2620(L) – meets this req. Also, consider reducing the limitations in existing MCC eg. .2620(J), and (M). Amend .2625 to delete (G) None, use not listed

Amends statute	Statute language: Bold type is new language, italics shows deleted text. Unchanged Oregon Laws Chapter 850 provisions not included.	MCC Requirement
	<u>SECTION 2a.</u> The provisions of ORS 197.047, 215.503 and 215.513 concerning notice of a new or amended statute, ordinance or administrative rule do not apply to section 16 of this 2009 Act, to the amendments to ORS 215.213 and 215.283 by sections 1 and 2 of this 2009 Act or to any other amendments to or repeal of statutes by sections 3 to 13 of this 2009 Act.	None. Process direction applicable to amendments to implement HB 3099
	<u>SECTION 14.</u> (1) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a use formerly allowed pursuant to ORS 215.213 (1)(a) or 215.283 (1)(a), as in effect before the effective date of this 2009 Act, may be expanded subject to: **(a) The requirements of subsection (2) of this section; and** **(b) Conditional approval of the county in the manner provided in ORS 215.296.** **(2) A nonconforming use described in subsection (1) of this section may be expanded under this section if:** **(a) The use was established on or before January 1, 2009; and** **(b) The expansion occurs on:** **(A) The tax lot on which the use was established on or before January 1, 2009; or** **(B) A tax lot that is contiguous to the tax lot described in**	Amend MCC

Amends statute	Statute language: Bold type is new language, italics shows deleted text. Unchanged Oregon Laws Chapter 850 provisions not included.	MCC Requirement
	subparagraph (A) of this paragraph and that was owned by the applicant on January 1, 2009. **NOTE:** Section 15 was deleted by amendment. Subsequent sections were not renumbered.	
	SECTION 16. On or before December 31, 2010, a county shall amend its land use regulations to conform to the amendments to ORS 215.213 by section 1 of this 2009 Act or ORS 215.283 by section 2 of this 2009 Act, whichever is applicable. Notwithstanding contrary provisions of state law or a county charter relating to public hearings on amendments to an ordinance, a county may adopt amendments to its land use regulations required by this section without holding a public hearing and without adopting findings if: **(1) The county has given notice to the Department of Land Conservation and Development of the proposed amendments in the manner provided by ORS 197.610; and** **(2) The department has confirmed in writing that the only effect of the proposed amendments is to conform the county's land use regulations to the amendments to ORS 215.213 by section 1 of this 2009 Act or ORS 215.283 by section 2 of this 2009 Act, whichever is applicable.** **NOTE:** Section 17 was deleted by amendment. Subsequent sections were not renumbered.	DLCD Form 1 submitted by Thursday, August 19. BOCC First Reading prior to Nov. 30.
	SECTION 18. The amendments to ORS 215.213 and 215.283 by sections 1 and 2 of this 2009 Act apply to uses established on or after the effective date of this 2009 Act. Approved by the Governor July 28, 2009 Filed in the office of Secretary of State July 28, 2009 Effective date January 1, 2010	