

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

**ORDINANCE NO. \_\_\_\_\_**

Amending MCC Chapters 11.05, 33-36 and 38 Relating to Planning Commission; MCC Chapters 33-36 and 38 Relating to Alternative Energy Systems, Solar Energy Generation, and Commercial Photovoltaic Energy Facilities in EFU Zones; and MCC Chapter 36 Relating to Rural Fire Stations in Various Zone Districts

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

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

- a. The Planning Commission is authorized by Multnomah County Code Chapter subsections 33.0140, 34.0140, 35.0140, 36.0140, 37.0710, 38.0710 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. Periodically there is a need to amend the County Land Use Planning Code (Zoning Code) provisions due to changing circumstances or for general housekeeping purposes such as technical corrections, clarifications and consistency. This ordinance incorporates three groups of amendments recommended by the Planning Commission: PC-2011-1402, *Amendments Relating to Planning Commission Authorities*; PC-2011-1796, *Relating to Alternative Energy Systems, Implementing 2011 HB 3516 and adding Commercial Photovoltaic Energy Facilities in EFU Zones*; and PC-2011-2032, *Amending MCC Chapter 36 Relating to Rural Fire Stations in Various Zone Districts*.
- c. The provisions related to authority of the Planning Commission to develop recommendations to the Board of Commissioners should be amended to clarify service of Planning Commission members, quorum and voting, and the conduct of meetings. These amendments improve consistency among related provisions in MCC Chapters 11.05 Planning Authority, Chapters 33 – 36, and Chapter 38 Columbia River Gorge Scenic Area.
- d. Zoning code provisions adopted in March of 2011, should be amended to remove the limit on the amount of energy generated by accessory systems because changing technology, government incentives, and market forces have expanded the opportunity to install larger systems. Additional amendments are needed to allow certain systems as outright uses consistent with HB 3516(2011), and to provide a process for consideration of commercial photovoltaic systems in the Exclusive Farm Use zone. Together, these amendments support Multnomah County's objectives related the Climate Action Plan.
- e. The list of Community Service uses for certain zones in MCC Chapter 36, West of Sandy River Rural Plan Area should be amended to add fire station as a use that may be authorized subject to review. The overall policy objective of protecting agriculture in the area from encroachment by new non-farm uses remains effective with this change because just one additional nonfarm use that primarily serves the needs of the rural area is added to the zoning code.
- f. Multnomah County designated urban and rural reserves within the West of Sandy River planning area by amending the county plan map and adopting Framework Plan Policy 6A Urban and Rural Reserves in May of 2010. The County's policy is to not amend zoning to allow new uses in reserve areas except in compliance with applicable state rules. The applicable Oregon Administrative Rule 660-027-0070 allows a change if the use could have been allowed at the time the area was designated as a reserve. The County could have amended the code in for the MUA-20, RR, PH-RC and OCI zones in 2010 to allow fire stations pursuant to ORS 215.283(1)(s), and can therefore make that amendment now.

- g. The Planning Commission conducted a public hearing for PC-2011-1402 on February 6, 2012; for PC-2011-1796 on March 5, 2012; and for PC-2011-2032 on April 2, 2012. All interested persons were given an opportunity to appear and be heard. Notice of the Planning Commission hearings, was published in the “Oregonian” newspaper and on the County Land Use Planning Program website.
- h. As stated in Planning Commission Resolution, the Planning Commission has found that the proposed amendments and additions to Multnomah County Code Chapters 33-38 and 11.05 in this Ordinance are needed and recommends approval. The Board agrees with the Planning Commission’s recommendations.

**Multnomah County Ordains as Follows:**

**PART I – PLANNING AUTHORITY AMENDMENTS**

**Section 1.** MCC 33.0110, 34.0110, 35.0110, 36.0110 and 11.05.040 are amended as follows:

- 33.0110 Terms Of Office Of Commission Members.**
- 34.0110 Terms Of Office Of Commission Members.**
- 35.0110 Terms Of Office Of Commission Members.**
- 36.0110 Terms Of Office Of Commission Members.**

(A) Terms of office of Commission members shall be a maximum of four years, and the term of no more than three Commission members shall expire in any year. The but any term of a Commissioner may shall continue until a successor is appointed. The term of a newly appointed Commissioner shall be designated such that a staggered term expiration scheme is maintained.

(B) No Commission member shall serve more than two consecutive terms excluding completion of an unexpired term of less than two years, unless otherwise provided by unanimous concurrence of the Board.

(C) Appointments to uncompleted terms shall be limited to the remainder of the expiring Commissioner’s term.

**11.05.040. Terms of office of commission members.**

(A) Terms of office of commission members shall be a maximum of four years, and the term of no more than three Commission members shall expire in any year. The but any term of a Commissioner may shall continue until a successor is appointed. The term of a newly appointed Commissioner shall be designated such that a staggered term expiration scheme is maintained.

~~(B) The terms of the commission members serving on November 18, 1976, shall expire on the following years:~~

<del>Position No.</del>	<del>Expiration</del>
<del>1</del>	<del>1978</del>
<del>2</del>	<del>1977</del>
<del>3</del>	<del>1979</del>
<del>4</del>	<del>1979</del>

5	1980
6	1980
7	1977
8	1980
9	1980

~~(E)~~ No commission member shall serve more than two consecutive terms excluding completion of an unexpired term of less than two years, but including any full terms being served on November 18, 1976, unless otherwise provided by unanimous concurrence of the board.

(C) Appointments to uncompleted terms shall be limited to the remainder of the expiring Commissioner's term.

**Section 2.** MCC 33.0115, 34.0115, 35.0115, 36.0115 and 11.05.050 are amended as follows:

**33.0115 Vacancies And Removal Of Commission Members.**

**34.0115 Vacancies And Removal Of Commission Members.**

**35.0115 Vacancies And Removal Of Commission Members.**

**36.0115 Vacancies And Removal Of Commission Members.**

(A) Upon resignation, permanent disqualification or removal of any member of the Commission, the Chair of the Board shall, pursuant to the County Charter, appoint a successor to fill the remainder of the term.

(B) After a hearing, the Board or the Planning Commission may remove any member for cause, which may include misconduct or nonperformance of duty. Nonperformance may include lack of attendance, as defined by three consecutive absences from Commission meetings, or five absences total during a calendar year.

~~(C) The absence of any member from three consecutive regular meetings shall be considered a resignation, which shall be presented by the chairperson of the Commission at the next regular Board meeting for acceptance or rejection by the Board.~~

**11.05.050. Vacancies and removal of commission members.**

(A) Upon resignation, permanent disqualification or removal of any member of the commission, the chairman of the board shall, pursuant to the county charter, appoint a successor to fill the remainder of the term.

(B) After a hearing, the board or the Planning Commission may remove any member for cause, which may include misconduct or nonperformance of duty. Nonperformance may include lack of attendance, as defined by three consecutive absences from Commission meetings, or five absences total during a calendar year.

~~(C) The absence of any member from three consecutive regular meetings shall be considered a resignation, which shall be presented by the chairperson of the commission at the next regular board meeting for acceptance or rejection by the board.~~

**Section 3.** MCC 33.0120, 34.0120, 35.0120, 36.0120 and 11.05.060 are amended as follows:

**33.0120 Officers and Staff.**

**34.0120 Officers and Staff.**

**35.0120 Officers and Staff.**

**36.0120 Officers and Staff.**

(A) The Commission shall, at or before its first meeting in April each year, elect and install from among its members a chairperson and vice-chairperson. The Commission may elect and install from among one of its members to serve as second vice-chairperson. If there is a vacancy in any officer position, the Commission shall fill such vacancy by appointing an officer at the first regular meeting following the vacancy.

(B) The Planning Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

**11.05.060. Officers and Staff.**

(A) The commission shall, at or before its first meeting in April each year, elect and install from among its members a chairperson and vice-chairperson. The commission may elect and install from among one of its members to serve as second vice-chairperson. If there is a vacancy in any officer position, the Commission shall fill such vacancy by appointing an officer at the first regular meeting following the vacancy.

(B) The Planning Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

**Section 4.** MCC 33.0125, 34.0125, 35.0125, 36.0125 and 11.05.070 are amended as follows:

**33.0125 Committees.**

**34.0125 Committees.**

**35.0125 Committees.**

**36.0125 Committees.**

The presiding officer~~Chairperson~~ of the Commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the Commission or the Board. ~~The Director of Land Use Planning and persons designated by the Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.~~

**11.05.070. Committees.**

The presiding officer~~chairperson~~ of the commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the commission or the board. ~~The director of planning and development and persons designated by the director shall serve as staff for the commission and its committees and shall provide such administrative and technical assistance as may be required.~~

**Section 5.** MCC 33.0130, 34.0130, 35.0130, 36.0130 and 11.05.080 are amended as follows:

~~33.0130 Administration Rules Of Procedures; Conflict Of Interest.~~

~~34.0130 Administration Rules Of Procedures; Conflict Of Interest.~~

~~35.0130 Administration Rules Of Procedures; Conflict Of Interest.~~

~~36.0130 Administration Rules Of Procedures; Conflict Of Interest.~~

~~(A) A verbatim recording shall be made of the proceedings before the Commission.~~

~~(B) A member of the Commission shall not participate in any Commission proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business of which the member is or has been a member within the previous two years or in any business with which the member is negotiating or has an arrangement or understanding concerning prospective partnership or employment.~~

~~(C) Any actual or potential financial or other interest which could lead to a member's bias or partiality in any action shall be disclosed by the member at the meeting of the Commission which the action is considered.~~

~~(A) The conduct of meetings of the Commission shall be according to rules of order adopted by the Commission and filed with the Planning Director. The rules shall be effective 15 days after filing.~~

~~(B) The Planning Director shall maintain an accurate and permanent record of all proceedings before the Commission, including a verbatim recording of such proceedings. Failure to maintain an accurate and permanent record does not invalidate any action taken by the Commission except as otherwise provided at law.~~

~~(C) Five members of the Commission shall constitute a quorum for the conduct of business. Notwithstanding a lack of quorum, the Commission may act to continue a hearing or matter to a time and date certain for consideration by a quorum.~~

~~(D) The affirmative vote of at least five members of the Commission is required for approval of motions relating to a matter classified in MCC 37.0530 as a Type IV or PC matter or a matter concerning a proposal to name or rename a street. Except as otherwise provided, the affirmative vote of the majority of those members of the Commission present is required for all other action by the Commission. A member of the Commission that abstains or is disqualified from participating or voting in a matter before the commission is not "present" for purposes of determining the number of votes required to take action on a matter.~~

~~**11.05.080. Rules of procedures; conflict of interest Administration.**~~

~~(A) The conduct of hearings of the commission shall be according to rules of procedure adopted by the commission and filed with the clerk of the board. They shall be effective 15 days after filing unless modified by the board.~~

~~(B) The staff of the planning and development division shall be responsible for keeping an accurate and permanent record of all proceedings before the commission.~~

~~(C) A verbatim recording shall be made of the proceedings before the commission.~~

~~(D) Five members of the commission shall constitute a quorum for the conduct of business; provided, however, that three members shall constitute a quorum when the commission acts as planning and zoning~~

hearings officer, under ~~MCC 11.15.8110 and 11.15.8230.~~

~~(E) A member of the commission shall not participate in any commission proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, father in law, mother in law, partner in any business of which the member is or has been a member within the previous two years or in any business with which the member is negotiating or has an arrangement or understanding concerning prospective partnership or employment.~~

~~(F) Any actual or potential financial or other interest which could lead to a member's bias or partiality in any action shall be disclosed by the member at the meeting of the commission which the action is considered.~~

(A) The conduct of meetings of the Commission shall be according to rules of order adopted by the Commission and filed with the Planning Director. The rules shall be effective 15 days after filing.

(B) The Planning Director shall maintain an accurate and permanent record of all proceedings before the Commission, including a verbatim recording of such proceedings. Failure to maintain an accurate and permanent record does not invalidate any action taken by the Commission except as otherwise provided at law.

(C) Five members of the Commission shall constitute a quorum for the conduct of business. Notwithstanding a lack of quorum, the Commission may act to continue a hearing or matter to a time and date certain for consideration by a quorum.

(D) The affirmative vote of at least five members of the Commission is required for approval of motions relating to a matter classified in MCC 37.0530 as a Type IV or PC matter or a matter concerning a proposal to name or rename a street. Except as otherwise provided, the affirmative vote of the majority of those members of the Commission present is required for all other action by the Commission. A member of the Commission that abstains or is disqualified from participating or voting in a matter before the commission is not "present" for purposes of determining the number of votes required to take action on a matter.

**Section 6.** MCC 33.0133, 34.0133, 35.0133, 36.0133 are added and 11.05.110 is amended as follows:

**33.0133 Meetings.**

**34.0133 Meetings.**

**35.0133 Meetings.**

**36.0133 Meetings.**

(A) The Commission shall schedule meetings on a regular monthly basis. The Planning Commission may schedule special meetings at the request of the Planning Director. Any meeting may be cancelled for lack of quorum or agenda item. All meetings are open to the public, except executive sessions, and notice shall be given as required by law or rule. Failure to provide an open meeting or notice as required by law or rule does not invalidate any action taken by the Commission except as otherwise provided at law.

(B) The Commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless additional notice is required by law or rule or is ordered by the Commission.

(C) The Commission may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated. The Commission will require that representatives of the news media and all other attendees are specifically directed not to disclose specified information that is the subject of the executive session.

**11.05.110. Meetings; notices.**

- ~~(A) The commission shall hold at least one public meeting each month. Additional meetings and the time and place of all meetings shall be determined by the chairperson of the commission or as requested by a majority of the entire commission.~~
- ~~(B) Before any meeting of the commission for the conduct of business, notice shall be given as required by statute or rule and also in the following manner:
  - ~~(1) Posting a notice in a conspicuous place in the Multnomah County courthouse not less than ten days prior to the meeting;~~
  - ~~(2) Publishing a notice of the date, time, place and agenda of the meeting at least once in a daily newspaper having general circulation in excess of 50,000 in Multnomah County not less than ten days before the meeting; and~~
  - ~~(3) Providing such notice and in such other manner as the board or the commission may direct.~~~~
- ~~(C) Failure to give the notice provided in subsection (B) of this section shall not invalidate any action taken at a meeting.~~
- ~~(D) The commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless notice is required by statute, rule, this chapter, some other ordinance or is ordered by the commission.~~
- ~~(E) The commission shall hold a public meeting jointly with the hearings council at least once each four months to consider such matters as the commission or the council may propose. Notice of each joint meeting shall be given as required by statute, rule and MCC 11.15.8120(B)(2).~~
- ~~(F) The chairperson of the commission or the chairperson of the hearing council, or their designated member substitutes, shall preside at alternative joint meetings provided for under subsection (E) of this section.~~

(A) The Commission shall schedule meetings on a regular monthly basis. The Planning Commission may schedule special meetings at the request of the Planning Director. Any meeting may be cancelled for lack of quorum or agenda item. All meetings are open to the public, except executive sessions, and notice shall be given as required by law or rule. Failure to provide an open meeting or notice as required by law or rule does not invalidate any action taken by the Commission except as otherwise provided at law.

(B) The Commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless additional notice is required by law or rule or is ordered by the Commission.

(C) The Commission may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated. The Commission will require that representatives of the news media and all other attendees are specifically directed not to disclose specified information that is the subject of the executive session.

**Section 7.** MCC 38.0300-38.0340 are added as follows:

**38.0300 PLANNING COMMISSION**

**38.0300 Planning Commission Established.**

The Planning Commission is designated as the land use planning advisory body to the Board and shall have the powers and duties described in this chapter and such other powers and duties as may be imposed on it by state, federal or local law, rule or regulation.

**38.0305 Membership of Commission.**

(A) The Commission shall consist of nine members, who shall be appointed pursuant to law and the charter of Multnomah County to fill designated positions numbered 1 through 9.

(B) Members of the Commission shall be residents of the various geographic areas of the county and shall serve without compensation, except for reimbursement for duly authorized expenses.

(C) A member who ceases to be a resident of Multnomah County shall then cease to be a member of the Commission.

(D) No more than two members of the Commission shall be engaged principally, whatever be the form of doing business, in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.

**38.0310 Terms of Office of Commission Members.**

(A) Terms of office of Commission members shall be a maximum of four years, and the term of no more than three Commission members shall expire in any year. The term of a Commissioner may continue until a successor is appointed. The term of a newly appointed Commissioner shall be designated such that a staggered term expiration scheme is maintained.

(B) No Commission member shall serve more than two consecutive terms excluding completion of an unexpired term of less than two years, unless otherwise provided by unanimous concurrence of the Board.

(C) Appointments to uncompleted terms shall be limited to the remainder of the expiring Commissioner's term.

**38.0315 Vacancies And Removal Of Commission Members.**

(A) Upon resignation, permanent disqualification or removal of any member of the Commission, the Chair of the Board shall, pursuant to the County Charter, appoint a successor to fill the remainder of the term.

(B) After a hearing, the Board or the Planning Commission may remove any member for cause, which may include misconduct or nonperformance of duty. Nonperformance may include lack of attendance, as defined by three consecutive absences from Commission meetings, or five absences total during a calendar year.

### **38.0320 Officers and Staff.**

(A) The Commission shall, at or before its first meeting in April each year, elect and install from among its members a chair and vice-chair. The Commission may elect and install from among its members a second vice-chair. If there is a vacancy in any officer position, the Commission shall fill such vacancy by appointing an officer at the first regular meeting following the vacancy.

(B) The Planning Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

### **38.0325 Committees.**

The presiding officer of the Commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the Commission or the Board.

### **38.0330 Administration.**

(A) The conduct of meetings of the Commission shall be according to rules of order adopted by the Commission and filed with the Planning Director. The rules shall be effective 15 days after filing.

(B) The Planning Director shall maintain an accurate and permanent record of all proceedings before the Commission, including a verbatim recording of such proceedings. Failure to maintain an accurate and permanent record does not invalidate any action taken by the Commission except as otherwise provided at law.

(C) Five members of the Commission shall constitute a quorum for the conduct of business. Notwithstanding a lack of quorum, the Commission may act to continue a hearing or matter to a time and date certain for consideration by a quorum.

(D) The affirmative vote of at least five members of the Commission is required for approval of motions relating to a matter classified in MCC 38.0530 as a Type IV or PC matter or a matter concerning a proposal to name or rename a street. Except as otherwise provided, the affirmative vote of the majority of those members of the Commission present is required for all other action by the Commission. A member of the Commission that abstains or is disqualified from participating or voting in a matter before the commission is not "present" for purposes of determining the number of votes required to take action on a matter.

### **38.0333 Meetings.**

(A) The Commission shall schedule meetings on a regular monthly basis. The Planning Commission may schedule special meetings at the request of the Planning Director. Any meeting may be cancelled for lack of quorum or agenda item. All meetings are open to the public, except executive sessions, and notice shall be given as required by law or rule. Failure to provide an open meeting or notice as required by law or rule does not invalidate any action taken by the Commission except as otherwise provided at law.

(B) The Commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless additional notice is required by law or rule or is ordered by the Commission.

(C) The Commission may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated. The Commission will require that representatives of the news media and all other attendees are specifically directed not to disclose specified information that is the subject of the executive session.

**38.0335 Coordination.**

(A) The Commission shall advise and cooperate with other planning commissions, hearings officers, agencies or bodies within the state, and shall, upon request or on its own initiative, make available advice or reports to the state or federal government or any regional association of governments, city, county, public officer or department on any problem comprehended within its powers and duties.

(B) All County officials, departments and agencies having information, maps and data considered by the Commission to be pertinent to its powers and duties shall make that information available for the use of the Commission upon request.

**38.0340 Powers And Duties Of Commission.**

The Commission shall:

(A) Recommend to the Board the adoption, revision or repeal of a comprehensive plan or portions thereof;

(B) Report and recommend to the Board the adoption, revision, amendment or repeal of zoning, subdivision, and other regulatory ordinances and regulations, intended to carry out part or all of a plan adopted by the board,

(C) Where appropriate, initiate actions under MCC Chapter 38 Part 3 – Administration and Procedures as amended;

(D) On request, provide written advisory opinions to the Board and Hearings Officer on the application of the Comprehensive Plan, zoning ordinance or other matter or regulation within the jurisdiction of the Commission to any proposed action before the Board or the Hearings Officer;

(E) Recommend to the Board the institution of injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;

(F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers on the land, as required to perform its functions;

(G) Consult with advisory committees, as appropriate, in regard to any matter within the powers and duties of the Commission; and

(H) Exercise such other powers and perform such other duties as may be given to the Commission by federal or state law or by this chapter or other ordinance.

**Section 8.** MCC 37.0530 and 38.0530 are amended as follows:

**37.0530 Summary of Decision Making Processes.**

\* \* \* \* \*

(E) PC reviews are legislative actions which involve the adoption or amendment of the county's land use regulations, comprehensive plan, map inventories and other policy documents that affect the entire county,

large areas, or multiple properties. These applications involve the greatest amount of discretion and evaluation of subjective approval criteria, and must be referred by ~~majority vote of the entire~~ Planning Commission onto the Board for final action prior to adoption by the county. The Board's decision is the county's final decision and is appealable to LUBA within 21 days of the date that the signed Board order or ordinance is mailed.

**38.0530 Summary of Decision Making Processes.**

\* \* \* \* \*

(D) PC reviews are limited to legislative actions which involve the adoption or amendment of textual language to the County's National Scenic Area (NSA) land use regulations. Within the NSA the Columbia River Gorge Commission has the authority to adopt amendments to the Management Plan and Land Use Designations Maps that are directly applicable to County actions. For this reason, PC reviews only involve limited discretion and evaluation of new or revised subjective approval criteria and revised maps, and must be referred by ~~majority vote of the entire~~ Planning Commission onto the Board for final action prior to adoption by the County. Upon adoption by the Board of County Commissioners, the ordinance shall be promptly submitted to the Columbia River Gorge Commission for their review and approval.

**Section 9.** MCC 37.0540 and 38.0540 are amended as follows:

**37.0540 Assignment Of Decision Makers.**

\* \* \* \* \*

(E) PC Actions. The Planning Commission shall review all PC actions. If the Planning Commission adopts ~~by majority vote of the entire Planning Commission~~ a resolution to recommend an action, the Planning Commission refers the resolution to the Board for final action. The Board's decision is the county's final decision on a PC application and is appealable to LUBA.

**38.0540 Assignment of decision makers.**

\* \* \* \* \*

(D) PC Actions. The Planning Commission shall review all PC actions. If the Planning Commission adopts ~~by majority vote of the entire Planning Commission~~ a resolution to recommend an action, the Planning Commission refers the resolution to the Board for final action. The ordinance becomes effective after approval by the Columbia River Gorge Commission and, if necessary, concurrence by the Secretary of Agriculture.

**Section 10.** MCC 37.0710 and 38.0710 are amended as follows:

**37.0710 (PC) Legislative Hearing Process.**

\* \* \* \* \*

(B) Planning Commission Review:

\* \* \* \* \*

(3) Planning Commission Recommendation. At the conclusion of the hearing on a proposal for legislative action, the Planning Commission shall adopt, ~~by majority vote of the entire Planning Commission~~, a recommendation to the Board of Commissioners on the proposal. The Planning Commission may recommend adoption of the proposal as presented to or modified by the Planning Commission or rejection of the proposal. If the Planning Commission recommends adoption of some form of the proposal, the Planning Commission shall prepare and forward to the

Board of Commissioners a report and recommendation to that effect. If the Planning Commission recommends rejection of the proposal, the matter is terminated and may not be appealed unless otherwise provided by law. If the Board of Commissioners has initiated the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation of rejection.

\* \* \* \* \*

### 38.0710 (PC) Legislative hearing process.

\* \* \* \* \*

#### (B) Planning Commission Review:

\* \* \* \* \*

(3) Planning Commission Recommendation. At the conclusion of the hearing on a proposal for legislative action, the Planning Commission shall adopt, ~~by majority vote of the entire Planning Commission,~~ a recommendation to the Board of Commissioners on the proposal. The Planning Commission may recommend adoption of the proposal as presented to or modified by the Planning Commission or rejection of the proposal. If the Planning Commission recommends adoption of some form of the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation to that effect. If the Planning Commission recommends rejection of the proposal, the matter is terminated and may not be appealed unless otherwise provided by law. If the Board of Commissioners has initiated the proposal, the Planning Commission shall prepare and forward to the Board of Commissioners a report and recommendation of rejection.

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## PART II – AMENDMENTS RELATING TO ALTERNATIVE ENERGY SYSTEMS; SOLAR ENERGY GENERATION; and COMMERCIAL PHOTOVOLTAIC ENERGY FACILITIES IN EFU ZONES

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**Section 11.** MCC 33.0005, 34.0005, 35.0005, 36.0005 and 38.0015 are amended as follows:

**33.0005 Definitions.**

**34.0005 Definitions**

**35.0005 Definitions**

**36.0005 Definitions**

**38.0015 Definitions**

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

**Accessory Alternative Energy System** -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity or heat, and conveys that energy to uses allowed on the ~~premises 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 thermal, photovoltaic or wind turbine structure, ~~or is composed of multiple structures, that individually or together have a total installed rating capacity of up to 12kW group of structures designed to offset all or part of the annual energy requirements of the property.~~

\* \* \* \* \*

**Section 12.** MCC 33.2020, 33.2220, 33.2420, 33.2620, 33.2820, 33.3120, 33.3320, 34.2620, 34.2820, 34.3120, 34.3320, 35.2020, 35.2220, 35.2620, 35.3120, 35.3320, 36.2020, 36.2620, 36.3120, 36.3320, 36.3420, 36.3520, 38.2025, 38.2225, 38.2425, 38.2825, 38.3025, and 38.322534.2620, 34.2820, 34.3120, 34.3320, 35.2020, 35.2220, 35.2620, 35.2820, 35.3120, 35.3320, 36.2020, 36.2620, 36.2820, 36.3120, 36.3320, 36.3420, 36.3520, 38.2025, 38.2225, 38.2425, 38.2825, 38.3025, and 38.3225 are amended as follows:

**33.2020 Allowed Uses**

**33.2220 Allowed Uses**

**33.2420 Allowed Uses**

**35.2020 Allowed Uses**

**35.2220 Allowed Uses**

\* \* \* \* \*

(W) 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:

\* \* \* \* \*

(b) The system meets all ~~overlay zones~~special district requirements;

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

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

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

(3) Wind Turbine Systems:

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

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

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

**33.2620 Allowed Uses**

**34.2620 Allowed Uses**

**35.2620 Allowed Uses**

**36.2620 Allowed Uses.**

\* \* \* \* \*

(AA) 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:

\* \* \* \* \*

(b) The system meets all ~~overlay zones~~special district requirements;

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

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

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

(3) Wind Turbine Systems:

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

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

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

**33.2820 Allowed Uses**

**33.3120 Allowed Uses**

**33.3320 Allowed Uses**

**34.2820 Allowed Uses**

**34.3120 Allowed Uses**

**34.3320 Allowed Uses**

**35.3120 Allowed Uses**

**35.3320 Allowed Uses**

**36.3320 Allowed Uses**

**36.3420 Allowed Uses.**

**36.3520 Allowed Uses.**

\* \* \* \* \*

(K) 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:

\* \* \* \* \*

(b) The system meets all ~~overlay zone~~special district requirements;

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

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

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

(3) Wind Turbine Systems:

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

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

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

**36.2020 Allowed Uses.**

\* \* \* \* \*

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

(1) All systems shall meet the following requirements:

- (a) The system is an accessory alternative energy system as defined in MCC 36.0005;
- (b) The system meets all ~~overlay zones~~special district requirements;
- (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- ~~(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(3) Wind Turbine Systems:

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

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

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

**36.3120 Allowed Uses.**

\* \* \* \* \*

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

(1) All systems shall meet the following requirements:

- (a) The system is an accessory alternative energy system as defined in MCC 36.0005;
- (b) The system meets all ~~overlay zones~~special district requirements;
- (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- ~~(d) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(3) Wind Turbine Systems:

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

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

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

### 38.2025 Review Uses

(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:

\* \* \* \* \*

(26) 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~~ special district requirements;

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

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

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

(c) For wind turbine systems:

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

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

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

(B) The following uses may be allowed on lands designated GSF pursuant to MCC 38.0530 (B) when the use or development will be sited to minimize the loss of land suitable for the production of forest products and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

(18) 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 zones~~special district requirements;
3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- ~~4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(c) For wind turbine systems:

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

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

\* \* \* \* \*

### 38.2225 Review Uses

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

\* \* \* \* \*

(22) 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 zones~~special district requirements;
3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- ~~4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;
2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7035 through 38.7080.
3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(B) The following uses may be allowed on lands designated GSA– 40 pursuant to MCC 38.0530 (B), provided that the use or development will be sited to minimize the loss of land suitable for the production of agricultural crops or livestock and upon findings that the NSA Site Review standards of MCC 38.7000 through 38.7085 have been satisfied:

\* \* \* \* \*

(21) 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 zones~~ special district requirements;
3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

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

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

(c) For wind turbine systems:

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

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

### 38.2425 Review Uses

The following uses may be allowed on lands designated GGRC, 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:

\* \* \* \* \*

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

(1) For all systems:

- (a) They are not a commercial power generating facility such as a utility;

(b) The system meets all ~~overlay zones~~special district requirements;

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

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

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

(3) For wind turbine systems:

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

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

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

### 38.2825 Review Uses

(A) The following uses are allowed on all lands designated GG– PR 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:

\* \* \* \* \*

(6) 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 zones~~special district requirements;

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

~~4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner~~

~~shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(c) For wind turbine systems:

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

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

~~3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.~~

(B) The following uses are allowed on all lands designated GG– CR 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:

\* \* \* \* \*

(6) 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 zones~~special district requirements;

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

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

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

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine

provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7035 through 38.7080;

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

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

(C) The following uses are allowed on all lands designated GS– PR 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:

\* \* \* \* \*

(14) 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 zones~~special district requirements;

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

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

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

(c) For wind turbine systems:

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

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

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

### 38.3025 Review Uses

(A) The following uses may be allowed on lands designated GGR, 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:

\* \* \* \* \*

(17) 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 zones~~ special district requirements;
3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

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

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

(c) For wind turbine systems:

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

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

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

(B) The following uses may be allowed on lands designated GSR, 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:

\* \* \* \* \*

(14) 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~~ special district requirements;
3. The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;
- ~~4. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned;~~

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

(c) For wind turbine systems:

1. They are set back to all property lines a distance equal or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point. There is no height restriction for a wind turbine provided the wind turbine meets the NSA Site Review Criteria of MCC 38.7040 et al.;
2. No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency and is consistent with the NSA Site Review approval criteria of MCC 38.7040 et al.
3. The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

### **38.3225 Review Uses**

The following review uses may be allowed on lands designated GGC, pursuant to the provisions of MCC 38.0045 and MCC 38.7300:

\* \* \* \* \*

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

(1) For all systems:

(a) They are not a commercial power generating facility such as a utility;

(b) The system meets all ~~overlay zones~~special district requirements;

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

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

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

(3) For wind turbine systems:

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

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

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

**Section 13.** MCC 35.2820 and 36.2820 are amended as follows:

**35.2820 Allowed Uses**

\* \* \* \* \*

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

(1) All systems shall meet the following requirements:

(a) The system is an accessory alternative energy system as defined in MCC 35.0005;

(b) The system meets all special district requirements;

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

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

### **36.2820 Allowed Uses.**

\* \* \* \* \*

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

(1) All systems shall meet the following requirements:

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

(b) The system meets all special district requirements;

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

(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 land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be

responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

**Section 14.** MCC 33.4515 and 36.4520 are amended as follows:

**33.4515 Exceptions**

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

\* \* \* \* \*

(16) In the SEC-v district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:

(a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

\* \* \* \* \*

**36.4520 Exceptions.**

An SEC permit shall not be required for the following:

\* \* \* \* \*

(N) In the SEC-v district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:

(1) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(3) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

**Section 15.** MCC 33.2610, 34.2610, 35.2610, and 36.2610 are amended to add the following definition:

**33.2610 Definitions**

**34.2610 Definitions**

**35.2610 Definitions**

**36.2610 Definitions.**

\* \* \* \* \*

Commercial photovoltaic solar power generation facility means an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, and storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. A photovoltaic solar power generation facility does not include a net metering pursuant to ORS 757.300 and OAR chapter 860, division 39 or Feed-in-Tariff project pursuant to ORS 757.365 and OAR chapter 860, division 84.

\* \* \* \* \*

**Section 16.** MCC 33.2630, 34.2630, 35.2630, and 36.2630 are amended as follows:

**33.2630 Conditional Uses**

\* \* \* \* \*

(V) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 33.2675.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership, on lands with less than 1320-feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership regardless of the operating business structure.

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

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

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

(8) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species.

(9) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the projects ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(10) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 48-acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the approval authority must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

### **34.2630 Conditional Uses**

\* \* \* \* \*

(V) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 34.2675.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership, on lands with less than 1320-feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent

company or individuals shall be considered to be in common ownership regardless of the operating business structure.

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

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

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

(8) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species.

(9) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the projects ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(10) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 48-acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the approval authority must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

### 35.2630 Conditional Uses

\* \* \* \* \*

(V) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 35.2675.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership, on lands with less than 1320-feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership regardless of the operating business structure.

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

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

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

(8) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species.

(9) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the projects ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(10) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 48-acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the approval authority must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

### **36.2630 Conditional Uses**

\* \* \* \* \*

(S) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 36.2675.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership, on lands with less than 1320-feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership regardless of the operating business structure.

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

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

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

(8) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species.

(9) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the projects ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(10) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 48-acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the approval authority must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

**Section 17.** MCC 33.6330, 34.6330, 35.6330 and 36.6330 are amended as follows:

**33.6330 Design Review Exemption**

**34.6330 Design Review Exemption**

**35.6330 Design Review Exemption**

**36.6330 Design Review Exemption.**

\* \* \* \* \*

(C) Commercial photovoltaic solar power generation facility.

**Section 18.** MCC 33.7015, 34. 7015, 35. 7015 and 36. 7015 are amended as follows:

**33.7015 Exceptions**

**34.7015 Exceptions**

**35.7015 Exceptions**

**36.7015 Exceptions.**

\* \* \* \* \*

(C) Commercial photovoltaic solar power generation facility.

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**PART III – AMEND WEST OF SANDY RIVER ZONING ORDINANCE TO ALLOW FIRE STATIONS  
IN VARIOUS ZONE DISTRICTS**

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**Section 19.** MCC 36.6015 is amended as follows:

**36.6015 Uses.**

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

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

- (1) Church.
  - (2) Group care facility.
  - (3) Kindergarten or day nursery.
  - (4) Library.
  - (5) Park, playground, sports area, golf course or recreational use of a similar nature.
  - (6) Utility facilities, subject to the approval criteria in Section 36.6010(A) through (H).
  - (7) Private club, fraternal organization, lodge.
  - (8) Radio and television transmission towers.
- \* \* \* \* \*
- (9) Recycling collection center.
  - (10) Riding academy or the boarding of horses for profit.

- (11) School, private, parochial or public; educational institution.
- (12) Transit station.
- (13) Waste collection, transfer, processing, or recovery facility.
- (14) Museum.
- (15) Ambulance Service Substation.
- (16) Mining and processing of geothermal resources.
- (17) Limited alternative uses of surplus public school space pursuant to the provisions in MCC 36.6050.
- (18) Fire Station.
- (19) Accessory uses to the above.

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

FIRST READING: \_\_\_\_\_

SECOND READING AND ADOPTION: \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Jeff Cogen, Chair

REVIEWED:  
JENNY M. MORF, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Jed Tomkins, Assistant County Attorney

SUBMITTED BY: M. Cecilia Collier, Director, Department of Community Services