

1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

**STAFF REPORT FOR THE PLANNING COMMISSION HEARING
SEPTEMBER 10, 2018**

**AMENDMENTS RELATING TO FOREST PRACTICES SETBACKS, FIRE SAFETY ZONES, AND
CLUSTERING REQUIREMENTS IN THE COMMERCIAL FOREST USE ZONES IN
CHAPTERS 33, 35, AND 36.
(PC-2018-10625)**

Staff Contact:
Adam Barber, Senior Planner
adam.t.barber@multco.us (503) 988-0168

SECTION 1.0 INTRODUCTION

This proposal: (1) amends the standards for Forest Practices Setbacks and Fire Safety Zones to clarify how replacement, restoration, alteration, and maintenance of, as well as additions to, certain existing development is regulated; and, (2) readopts accessory structure clustering provisions that were inadvertently deleted in 2017 through adoption of Ordinance 1242.

Background

1. Land use provisions in the Commercial Forest Use (CFU) zones require development to meet Forest Practices Setback and Fire Safety Zone standards to help conserve and protect designated lands for the continued commercial growing and harvesting of timber, as well as reduce the risk, and minimize the impacts, of wildfires. The application of those standards depends on the type of development proposed. The existing CFU standards addressing the replacement, restoration, alteration and maintenance of, or the addition to, structures that do not meet current setback requirements (30 feet for purposes of these amendments) will benefit from further clarification. This proposal clarifies how Forest Practices Setbacks and Fire Safety Zones apply when there is a nonconforming setback for existing development. In particular, the proposal clarifies that, where there was a nonconforming setback of less than 30 feet on the date that the relevant line of the table was last amended, that setback may be maintained. The proposal also clarifies that, where there is such a nonconforming setback, the Primary Fire Safety Zone, normally

Staff Contact: Adam Barber

required to be 30 feet, is required to the full extent of that nonconforming setback as it existed on the date that the relevant line of the table was last amended. Finally, this proposal clarifies that where at least a portion of a replaced or restored dwelling will be within 100 feet of the existing dwelling, current setback standards must be met.

2. Ordinance 1242, adopted February 23, 2017, more clearly delineated the features and facilitates that may be approved for accessory structures and provided additional opportunities for the siting of small accessory structures, fences, and retaining walls. Prior to enactment of that Ordinance, accessory structures permitted under the Allowed Use provisions in the CFU zones were required to be located within 100 feet of the dwelling. Staff believes that the Planning Commission did not intend to alter or remove that wording from the Code. However, the phrase “located within 100 feet of the dwelling” previously located in the CFU zones was deleted from the code when that language was inadvertently eliminated within Ordinance 1242. The proposal below corrects this error by inserting this same phrase back into Accessory Structure provisions applicable to Allowed Uses within the CFU Zones. These amendments will readopt Code that was never intended to be eliminated, ensuring that the Code is consistent with the County’s intent to offer a simpler (Allowed Use) authorization process for accessory structures clustered within 100-feet of a dwelling. The desired outcome of this incentive is to encourage structural clustering on forested tracts to help preserve the amount of commercial forestland in Multnomah County.

SECTION 2.0 PROPOSED CODE AMENDMENTS

This proposal amends provisions of Chapters 33 (West Hills Plan Area), 35 (East of Sandy River) and 36 (West of Sandy River Plan Area).

The following text is used within the proposed amendments:

Double Underline = Proposed new language
~~Strikethrough~~ = Language proposed for removal

* * * Indicates a minor gap in code

2.1 AMENDING FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES TO CLARIFY HOW REPLACEMENT, RESTORATION, ALTERNATION, AND MAINTENANCE OF, AND ADDITIONS TO, CERTAIN EXISTING DEVELOPMENT IS REGULATED

The proposed amendments will apply in all Commercial Forest Use Zones, including CFU (MCC 36.2056), CFU-1 (MCC 33.2056), CFU-2 (MCC 33.2256); CFU-3 (MCC 35.2056), CFU-4 (MCC 35.2256), and CFU-5 (MCC 33.2456).

- § 33.2056 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES
- § 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES
- § 33.2456 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES
- § 35.2056 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES
- § 35.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES
- § 36.2056 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location & greater than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	<p style="text-align: center;"><u>Nonconforming setback(s) of less than 30 ft. to property lines that existed as of August 26, 2006 may be maintained</u></p> <p>May maintain current nonconforming setback(s) if less than 30 ft. to property lines</p>	30	30	<p>Primary is required, <u>except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of August 26, 2006, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006 to the extent possible within the existing setbacks</u></p>
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	<p>May maintain current nonconforming setback but shall increase to 30 ft. if less than 30 ft. <u>N/A</u></p>	30	30	<p>Primary required; Maintenance of vegetation in the Secondary is required to the extent possible</p>

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Addition to an existing structure	<p><u>Nonconforming setback(s) of less than 30 ft. to property lines that existed as of May 21, 2011 may be maintained</u></p> <p>May maintain current nonconforming setback(s) if less than 30 ft. to property lines</p>	30	30	<p>Primary is required, <u>except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of May 21, 2011, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006 to the extent possible within the existing setbacks</u></p>
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2.2 READOPTING ALLOWED USE CLUSTERING REGULATIONS IN THE CFU ZONES FOR ACCESSORY STRUCTURES

The proposed amendments will apply in all Commercial Forest Use Zones, including CFU (MCC 36.2020), CFU-1 (MCC 33.2020), CFU-2 (MCC 33.2220); CFU-3 (MCC 35.2020), CFU-4 (MCC 35.2220), and CFU-5 (MCC 33.2420).

- § 33.2020 ALLOWED USES
- § 33.2220 ALLOWED USES
- § 33.2420 ALLOWED USES
- § 35.2020 ALLOWED USES
- § 35.2220 ALLOWED USES

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§ 36.2020 ALLOWED USES.

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(T) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district, is located within 100 feet of the dwelling, and is a structure identified in the following list:

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