



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

07/02/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment  
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, July 18, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Joe Fennimore, Marion County  
Jon Jinings, DLCD Community Services Specialist  
Angela Lazarean, DLCD Regional Representative  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM

2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed
DATE  
STAMP

DEPT OF

JUL 28 2013

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **MARION COUNTY**Local file number: **LA12-002**Date of Adoption: **6/26/2013**Date Mailed: **6/27/2013**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 11/14/2012☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Proposed revisions to the Marion County Code Title 17 (Rural Zone Code) incorporating new legislation, proposed amendment by member of the public, minor updates, clarification of regulation and chapter reorganization and declaring an emergency

Does the Adoption differ from proposal? Yes, Please explain below:

See attached

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☒ Yes ☐ No

DLCD File No. 002-12 (19575) [17513]



DLCD file No. \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

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Local Contact: Joe Fennimore

Phone: (503) 588-5038 Extension:

Address: 5155 Silverton Rd NE

Fax Number: 503-589-3284

City: Salem

Zip: 97305-

E-mail Address: [gfennimore@co.marion.or.us](mailto:gfennimore@co.marion.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

Yes, the proposal to allow events in the AR zone (Chapter 17.128 MCC) was **not** adopted. MCC 17.125.100 (Limited Home Occupations) was amended to allow customer visits and 800 square feet of floor space instead of 500 square feet. The property line adjustment requirements in the LDU 17.136.090(C), SA 17.137.090(C), and FT 17.139.090(D) zones were amended by adding the following items;

Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.137.030(A) so long as the adjustment:

- a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and
- b. Does not increase the potential number of dwellings on the resulting parcels.

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

In the Matter of an Ordinance Amending Marion     )  
County Code, Title 17 (Rural Zone Code) by         )  
Amending Provisions and Declaring an Emergency )

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. 1330

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS  
FOLLOWS:

SECTION I. Purpose

This ordinance is enacted pursuant to the authority granted to general law counties in the State of Oregon by ORS Chapters 203, 197 and 215 to implement the County Comprehensive Plan by amending the Marion County Code provisions related to rural zoning.

SECTION II. Authorization

The Marion County Board of Commissioners initiated legislative amendments to the Marion County Rural Zone Code by Resolution 12-29R, dated October 17, 2012. The Marion County Planning Commission held a public hearing on January 15, 2013, and the Board of Commissioners held a public hearing on June 5, 2013 to consider the amendments, for which proper notice and advertisement were given. All persons present during the public hearing were given the opportunity to speak or present written statements.

SECTION III. Evidence and Conclusion

The amendments of the Marion County Rural Zone Code made hereunder are based on consideration and analysis of the operation of present zoning regulations and provisions of ORS Chapters 197 and 215 and the State Land Use Goals and related Oregon Administrative Rules. Due consideration was given to testimony in the hearing. The Board finds that the revisions to the Rural Zone Code are in compliance with State Land Use Goals, the applicable policies in the Marion County Comprehensive Plan, and with ORS 197 and ORS 215.

SECTION IV. Amendments

Title 17 MCC (Marion County Rural Zone Code) is amended as set forth in Exhibit A, attached hereto and incorporated herein.

SECTION V. Severability and Savings Clause


Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any policy, provision, finding, statement, conclusion, or designation to a particular land use or area of land, or any other portion, segment or element of this ordinance or of the amendments adopted hereunder, be declared invalid for any reason, that declaration shall not affect the validity of any provision of this ordinance or of any other Marion County Code provisions amended herein.

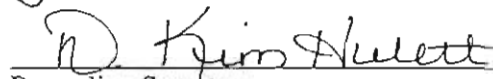
SECTION VI. Effective Date

This ordinance being necessary to protect the public health, safety and welfare, an emergency is declared to exist and this ordinance shall be come effective upon its passage.

SIGNED and FINALIZED this 26<sup>th</sup> day of June, 2013, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

  
Chair

  
Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

## EXHIBIT A

### ~~DELETIONS IN STRIKEOUT~~ ADDITIONS IN BOLD AND UNDERLINED

#### CHAPTER 17.110 GENERAL PROVISIONS Article II. Definitions

**17.110.300 KENNEL.** "Kennel" means any lot or premises on which four or more dogs and/or cats or pets over the age of four months are kept for sale, lease, breeding, boarding, shows, or training, ~~or racing.~~

#### CHAPTER 17.120 SPECIFIC CONDITIONAL USES

##### Article I. Specific Conditional Uses

Section	Title	Page
17.120.010	Mobile Home Parks	1
17.120.020	Duplex on a Corner Lot	4
17.120.030	Boat, Camper, and Trailer Storage Area or Lot	4
17.120.040	Temporary Use of Mobile Homes or Recreational Vehicle During Certain Hardship Conditions	4
17.120.050	Custom Cabinet Shop and Sales Firm	5
17.120.075	Conditional Home Occupations	6
17.120.080	Wireless Communication Facilities	7
17.120.090	Agri-tourism Events and Activities	9
<b><u>17.120.100</u></b>	<b><u>Wind Power Generating Facilities</u></b>	
<b><u>17.120.110</u></b>	<b><u>Photovoltaic Solar Power Generating Facilities</u></b>	

**17.120.075 CONDITIONAL HOME OCCUPATIONS.** A conditional home occupation shall meet the following use and development standards:

- A. The home occupation shall be the carried on by the resident or residents of a dwelling on the subject property as a secondary use and may employ no more than two persons ("person" includes volunteer, non-resident employee, partner or any other person).
- B. The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home occupation shall not violate Department of Environmental Quality or Chapter 8.45 MCC, Noise.
- C. The conditional home occupation shall not significantly interfere with other uses permitted in the zone in which the property is located.
- D. A sign shall meet the standards in Chapter 17.191 MCC.
- E. The home occupation shall be conducted entirely within the dwelling or accessory building.

- F. The total floor area of buildings on the subject property devoted to a home occupation shall not exceed 500 square feet in a residential zone, except in the AR zone where 1,500 square feet is the maximum.
- G. No structural alterations shall be made that would be inconsistent with future use of the buildings exclusively residential purposes.
- H. No alteration to or use of the premises shall be made that would reduce the number of required on-site parking spaces.
- I. All visits by suppliers or customers shall occur between the hours of 8:00 a.m. and 8:00 p.m. These limitations do not apply to a bed and breakfast use as defined in MCC 17.110.108.
- J. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the conditional home occupation.
- K. Deliveries to or from the dwelling shall not involve a vehicle rated at more than one ton. There shall be no more than one commercial vehicle located on the property in conjunction with the home occupation.
- L. Where a home occupation involves deliveries, one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot frontage does not provide paved area for at least two parallel parking spaces. During normal loading/unloading or customer parking periods the off-street loading and parking spaces shall be reserved exclusively for that use.
- M. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
- N. Retail and wholesale sales that do not involve customers coming to the property, such as Internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

**17.120.100 WIND POWER GENERATION FACILITIES.** Wind power generation facilities shall be subject to the following criteria:

1. For purposes of this section, a wind power generation facility includes, but is not limited to, the following system components: wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances.
2. For high-value farmland soils described at ORS 195.300(10), the following must be satisfied:
  - (A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
    - (i) Technical and engineering feasibility;
    - (ii) Availability of existing rights of way; and
    - (iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under (B) of this subsection.



- (B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.
- (C) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.
- (D) The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

3. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), it must be found that:

- (A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way to create small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
- (B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

4. For non-arable lands, meaning lands that are not suitable for cultivation, it must be determined that the requirements of 17.120.100 (3)(D) are satisfied.

5. In the event that a wind power generation facility is proposed on a combination of arable and non-arable lands as described in 17.120.100 (3) and (4) the approval criteria of MCC 17.120.100 (3) shall apply to the entire project.

17.120.110 PHOTOVOLTAIC SOLAR POWER GENERATING FACILITIES. Photovoltaic Solar Power generating facilities shall be subject to the following criteria and definitions:

1. Definitions:

- (A) “Arable land” means land in a tract that is predominately cultivated or, if not currently cultivated, predominantly comprised of arable soils.
- (B) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described in ORS 195.300(10) unless otherwise stated.
- (C) “Nonarable land” means land in a tract that is predominately not cultivated and predominately composed of nonarable soils.
- (D) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V-VIII and no history of irrigation shall be considered non-arable land in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
- (E) “Photovoltaic solar power generation facility” includes, but is not limited to, 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, storage devices and other components. Photovoltaic solar power generation facility also include electrical cable collection systems connecting the photovoltaic solar power 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. For purposes of applying the acreage standards of this section, 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 under common ownership on lands with fewer than 1,320 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. A photovoltaic solar power generation facility does not include a net metering project consistent with ORS 757.300 and OAR Chapter 860, Division 039 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR Chapter 860, Division 084.

2. For high-value farmland soils described at ORS 195.300(10), the following must be satisfied:

- (A) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004;

- (B) The proposed photovoltaic solar power facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
- (C) 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. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (D) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (E) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- (F) The project is not located on high-value farmland soil unless it can be demonstrated that:
- (i) Non high-value farmland soils are not available on the subject tract; or
  - (ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (iii) 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 on non high-value farmland soils.
- (G) 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:
- (i) 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;
  - (ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the overall land use pattern of the area will be materially altered if the overall

effect of existing and potential photovoltaic solar power generation facilities will make if more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

3. For arable lands the following must be satisfied:

- (A) A photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004;
- (B) The proposed photovoltaic solar power facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
- (C) 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. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (D) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (E) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- (F) The project is not located on high-value farmland or arable soils unless it can be demonstrated that:
  - (i) Non arable soils are not available on the subject tract; or
  - (ii) Siting the project on non arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (iii) 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 non-arable soils.

- (G) 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:
- (i) If fewer than 80 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:
  - (ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the overall land use pattern of the area will be materially altered if the overall effect of existing and potential photovoltaic solar power 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 or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

4. For non-arable lands the following must be satisfied:

- (A) A photovoltaic solar power generation facility shall not preclude more than 100 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004;
- (B) No more than 12 acres of the project will be sited on high-value farmland soils described in ORS 195.300(10);
- (C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004;
- (D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- (E) The project is not located on high-value farmland or arable soils unless it can be demonstrated that:
  - (i) Siting the project on non arable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (ii) 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 non-arable soils.
- (F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting



the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(G) If a photovoltaic solar power generation facility is proposed, prior to January 1, 2022, to be located on land where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

5. A condition of any approval for a photovoltaic solar power generation facility shall require the project owner to sign and record in the deed records of Marion County a document binding the project owner and project owner's successor in interest, prohibiting them from pursuing a claim for federal relief or cause of action alleging injury from farming or forest practices defined in ORS 30.930(2) and (4).

6. Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

#### CHAPTER 17.125 LIMITED USES

Section	Title	Page
17.125.005	Purpose	1
17.125.010	Temporary Use of Mobile Home During Construction	1
17.125.020	Subdivision or Planned Development Pre-cutting and Assembly Facility	1
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**17.125.130 Single Agri-tourism or Other Commercial Event**

**17.125.100 LIMITED HOME OCCUPATIONS.** A limited home occupation shall meet the following use and development standards:

- A. The home occupation shall be carried on solely by the resident or residents of a dwelling on the subject property as a secondary use. No employees living off the premises are allowed.
- B. The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home occupation shall not violate Department of Environmental Quality or Chapter 8.45 Noise.
- C. No sign or display on the premises is allowed that will indicate from the exterior of the dwelling or attached garage that the premises is used for any purpose other than a dwelling.
- D. The home occupation shall be conducted entirely within the dwelling or any attached garage.
- E. The total floor area devoted to a home occupation shall not exceed 5800 square feet.
- F. No structural alterations shall be made to the dwelling or attached garage that would be inconsistent with future use of the building exclusively as a dwelling.
- G. No alteration to or use of the premises shall be made that would reduce the number of required on-site parking spaces.
- H. No visits by suppliers or customers shall occur.
- I. Customers coming to the property shall be limited to the hours of 8:00 a.m. through 8:00 p.m.**
- ~~J. All products made on or sold from the premises shall be disposed of by delivery from the premises to the homes or business of customers.~~ **Retail and wholesale sales that do not involve customers coming to the property, such as Internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.**
- ~~K.J.~~ There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the limited home occupation.
- ~~L.K.~~ The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
- ~~M.L.~~ There shall be no more than one commercial vehicle located on the property in conjunction with the home occupation.
- ~~N.M.~~ In order to establish a new home occupation the property owner, and any lessee of the dwelling, shall sign an agreement that:
  - 1. Acknowledge the requirements of this section;
  - 2. Agrees that the home occupation will be discontinued or brought into strict conformance with the requirements of this section upon notification from the community development department of any violation of this section.

17.125.130 SINGLE AGRI-TOURISM OR OTHER COMMERCIAL ACTIVITY EVENT: A farming operation may obtain a permit for a single agri-tourism or other commercial activity in a calendar year, subject to the following requirements:

- A. The event or activity shall be incidental and subordinate to the existing farm use on the tract;
- B. The event or activity may not begin before 6 a.m. or end after 10 p.m.;
- C. The event or activity may not involve more than 100 attendees or 50 vehicles;
- D. Sound amplification may not be used before 8 a.m. or after 8 p.m.;
- E. The event or activity may not involve the construction or use of new permanent structure;
- F. The event or activity must be located on a tract of at least 10 acres unless the owner of residents of adjoining properties consent in writing to the location;
- G. The event or activity must comply with all health and fire and life safety requirements;
- H. Any event or activity is personal to the applicant and is not transferrable; and,
- I. The applicant and property owner shall sign an agreement that acknowledges the requirements of this section.

#### CHAPTER 17.136 EXCLUSIVE FARM USE ZONE

17.136.020 PERMITTED USES. Within an EFU zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- K. Single Agri-tourism or Other Commercial Event subject to 17.125.130.

17.136.040 USES PERMITTED SUBJECT TO STANDARDS. The following uses may be permitted in the EFU zone subject to approval of the request by the planning director, based on satisfaction of the standards and criteria specified for each use, pursuant to MCC 17.115.

- O. Dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012 subject to the following:

- 1. The number of dogs in each training class shall not exceed 10.
- 2. There shall be no more than six training classes per day.
- 3. The number of dogs participating in the testing trials shall not exceed 60
- 4. There shall be no more than four testing trials per calendar year.

17.136.050 CONDITIONAL USES. The following uses may be permitted in an EFU zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.136.060(A), and any additional criteria, requirements, and standards specified for the use:

- D. The following commercial uses:
  - 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of a declaratory statement in MCC 17.136.100(C).
  - 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B).

3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).
4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities:
  - a. Existing composting operations and facilities that do not meet 17.136.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-006.
  - b. New composting operations and facilities that do not meet 17.136.020(J) may be established on land not defined as high-value farmland subject to the following:
    1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
    2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
    3. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.
10. Dog training classes or testing trials not permitted under MCC 17.136.040(O)

E. The following mining and processing activities:

1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 and MCC 17.120.410 through 17.120.480.
2. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
3. Processing, as defined by ORS 517.750, or aggregate into asphalt or portland cement subject to MCC 17.120.410 through 17.120.480 and 17.136.060(IH)(1).
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility use:

1. Commercial utility facilities for the purpose of generating power, other than wind power generation or photovoltaic solar power generation, for public sale, subject to Section MCC 17.136.060(F).
2. Wind power generation facilities subject to MCC 17.136.060(G) 120.100.
3. Photovoltaic solar power generating facilities subject to MCC 17.120.110.
43. Transmission towers over 200 feet in height.

H. The following recreation uses subject to MCC 17.136.060(JI):

1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(HG) with filing of the declaratory statement in MCC 17.136.100(C).
2. Expansion of a lawfully established community center, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or non-profit community organization with filing of the declaratory statement in MCC 17.136.100(C).
3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).
4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).
5. Living history museum subject to MCC 17.136.060(HI)(2), and with filing of the declaratory statement in MCC 17.136.100(C).

N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.136.060(JI).

**17.136.060 CONDITIONAL USE REVIEW CRITERIA.** The uses identified in MCC 17.136.050 shall satisfy criteria in the applicable subsections below.

~~G. Wind Power Generation Facilities. Wind power generation facilities shall be subject to the following criteria:~~

- ~~1. For purposes of this section, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay down areas and all other necessary appurtenances.~~
- ~~2. For high value farmland soils described at ORS 195.300(10), the following must be satisfied:~~
  - ~~(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:~~
    - ~~(i) Technical and engineering feasibility;~~
    - ~~(ii) Availability of existing rights-of-way; and~~



(iii) ~~The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under (B) of this subsection.~~

(B) ~~The long term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high value farmland soils.~~

(C) ~~Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high value farmland soils is necessary.~~

(D) ~~The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.~~

3. ~~For arable lands, meaning lands that are cultivated or suitable for cultivation, including high value farmland soils described at ORS 195.300(10), it must be found that:~~

(A) ~~The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and~~

(B) ~~The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and~~

(C) ~~Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and~~

(D) ~~Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.~~

4. ~~For non-arable lands, meaning lands that are not suitable for cultivation, it must be determined that the requirements of 17.136.060(G)(3)(D) are satisfied.~~
5. ~~In the event that a wind power generation facility is proposed on a combination of arable and non-arable lands as described in 17.136.060(G)(3) and (4) the approval criteria of MCC 17.136.060(G)(3) shall apply to the entire project.~~

HG. Private Parks and Campgrounds. Private parks, playground, hunting and fishing preserves, and campground expansions shall meet the following criteria:

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
2. It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
3. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
4. A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
  - a. No more than one-third or a maximum of 10 campsites, whichever is smaller may include yurts;
  - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
5. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
6. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
7. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

IH. Other Uses.

1. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
2. Living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

As used in this subsection:

- a. "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and
- b. "Local historical society" means the local historical society recognized by the County Board of Commissioners and organized under ORS Chapter 65.

**II.** The following criteria apply to those uses identified in MCC 17.136.050:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.
2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection "tract" means a tract as defined in MCC 17.136.140(F) in existence on (MAY 5, 2010).
3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits of this subsection.

**17.136.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.**

The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

**C.** Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
2. If the minimum parcel size in MCC 17.136.090(A)(1) is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.
3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.
4. A property line adjustment may not be used to:
  - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;

- b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.
5. Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.136.030(A) so long as the adjustment:
- a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and
  - b. Does not increase the potential number of dwellings on the resulting parcels.

#### CHAPTER 17.137 SA (SPECIAL AGRICULTURE) ZONE

**17.137.020 PERMITTED USES.** Within an SA zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

K. Single Agri-tourism or Other Commercial Event subject to 17.125.130.

**17.137.040 USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the SA zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.115.

O. Dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012 subject to the following:

- 1. The number of dogs in each training class shall not exceed 10.
- 2. There shall be no more than six training classes per day.
- 3. The number of dogs participating in the testing trials shall not exceed 60.
- 4. There shall be no more than four testing trials per calendar year.

**17.137.050 CONDITIONAL USES.** The following uses may be permitted in an SA zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.137.060(A) and any additional criteria, requirements, and standards specified in this section:

D. The following commercial uses:

- 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.137.060(C) with filing of the declaratory statement in MCC 17.137.100(C).
- 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.137.060(J), but including a winery not permitted under MCC 17.137.040(B).
- 3. Dog kennels in conjunction with a dwelling occupied by the kennel operator, subject to MCC 17.137.060(D)(2) with filing of the declaratory statement in MCC 17.137.100(C).
- 4. Room and board arrangements for a maximum of five unrelated persons in existing

residences with filing of the declaratory statement in MCC 17.137.100(C).

5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities

- a. Existing composting operations and facilities that do not meet 17.137.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-006.

- b. New composting operations and facilities that do not meet 17.137.020(J) may be established on land not defined as high-value farmland subject to the following:

1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
3. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.

9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.

10. **Dog training classes or testing trials not permitted under MCC 17.137.040(O)**

E. The following mining and processing activities:

1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in MCC 17.137.020.
2. Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through MCC 17.120.480.
3. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.137.060(H)(1) and MCC 17.120.410 through 480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility uses:

1. Commercial utility facilities for the purpose of generating power, **other than wind power generation or photovoltaic solar power generation**, for public sale, subject to MCC 17.137.060(E).
2. Wind power generation facilities subject to MCC 17.137.060(F) **120.100.**
3. **Photovoltaic solar power generating facilities subject to MCC 17.120.110.**
4. Transmission towers over 200 feet in height.

H. The following recreation uses subject to MCC 17.137.060(K,J):



1. Private parks, playgrounds, hunting and fishing preserves and campgrounds subject to MCC 17.137.060(~~GF~~) and (~~HH~~)(2) with filing of the declaratory statement in MCC 17.137.100(C).
  2. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035, or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.137.100(C).
  3. Golf courses, as defined in MCC 17.137.130(C), and subject to the requirements in MCC 17.137.060(~~HG~~) with filing of the declaratory statement in MCC 17.137.100(C).
  4. Living history museum subject to MCC 17.137.060 (~~HH~~)(3) with filing of the declaratory statement in MCC 17.137.100(C).
- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with facilities and buildings for its operation, subject to MCC 17.137.060(~~HH~~)(2) with filing of the declaratory statement in MCC 17.137.100(C).
  - N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 137.060(~~KJ~~).

**17.137.060 CONDITIONAL USE REVIEW CRITERIA.** The uses identified in MCC 17.137.050 shall satisfy the criteria in the applicable subsections below.

~~1. Wind Power Generation Facilities. Wind power generation facilities shall be subject to the following criteria:~~

- ~~1. For purposes of this section, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay down areas and all other necessary appurtenances.~~
- ~~2. For high value farmland soils described at ORS 195.300(10), the following must be satisfied:~~
  - ~~(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:~~
    - ~~(i) Technical and engineering feasibility;~~
    - ~~(ii) Availability of existing rights of way; and~~
    - ~~(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under (B) of this subsection.~~
  - ~~(B) The long term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than~~

would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.

(C) — ~~Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.~~

(D) — ~~The owner of a wind power generation facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.~~

3. — ~~For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), it must be found that:~~

(A) — ~~The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and~~

(B) — ~~The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and~~

(C) — ~~Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil de-compaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and~~

(D) — ~~Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.~~

4. — ~~For non-arable lands, meaning lands that are not suitable for cultivation, it must be determined that the requirements of 17.136.060(F)(3)(D) are satisfied.~~

5. — ~~In the event that a wind power generation facility is proposed on a combination of arable and non-arable lands as described in 17.136.060(F)(3) and (4) the approval criteria of 17.136.060(F)(3) shall apply to the entire project.~~

GF. Private Parks and Campgrounds. Private parks, playground, hunting and fishing preserves, and campgrounds shall meet the following criteria:

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
2. It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
3. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
4. A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
  - a. No more than one-third or a maximum of 10 campsites, whichever is smaller may include yurts;
  - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
5. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
6. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
7. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six month period.

HG. Golf Course. A golf course is subject to the following limitations:

1. New golf courses shall not be permitted on high-value farmland, as defined in MCC 17.137.130(D).
2. An existing legally established golf course on high-value farmland may be expanded on the same tract consistent with the provisions of MCC 17.137.130(C).

IH. Other Uses.

1. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
2. For uses listed in MCC 17.137.050(D)(3), (H)(1) and (I), new facilities on high-value farmland shall not be authorized. Existing legally established facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract.
3. A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than a Special Agriculture Zone cannot accommodate the museum and related activities or if

the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

As used in this paragraph:

- a. "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and event; and
- b. "Local historical society" means the local historical society recognized by the County Board of Commissioners and organized under ORS Chapter 65.

II. Commercial Activities in Conjunction with Farm Use:

1. The commercial activity must be primarily a customer or supplier of farm uses.
2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
3. The agricultural and commercial activities must occur together in the local community.
4. The products and services provided must be essential to the practice of agriculture.

K.J. The following criteria apply to those uses identified in MCC 17.137.050:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.
2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection "tract" means a tract as defined in MCC 17.137.130(F) in existence on (MAY 5, 2010).
3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits of this subsection.

**17.137.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.**

The following regulations shall apply when property line adjustments and partitioning of land within the SA zone subject to the provisions of Chapter 17.172 MCC are proposed:

C. Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
2. If the minimum parcel size in subsection (A)(1) of this section is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.

3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.
4. A property line adjustment may not be used to:
  - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
  - b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.
5. Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.137.030(A) so long as the adjustment:
  - a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and
  - b. Does not increase the potential number of dwellings on the resulting parcels.

#### CHAPTER 17.139 FT (FARM/TIMBER) ZONE

**17.139.020 PERMITTED USES.** Within an FT zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

**T. Single Agri-tourism or Other Commercial Event subject to 17.125.130.**

**17.139.040 USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the FT zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.115.

**M. Dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012 subject to the following:**

- 1. The number of dogs in each training class shall not exceed 10.**
- 2. There shall be no more than six training classes per day.**
- 3. The number of dogs participating in the testing trials shall not exceed 60.**
- 4. There shall be no more than four testing trials per calendar year.**

**17.139.050 CONDITIONAL USES.** The following uses may be permitted in an FT zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.139.060(A) and any additional criteria, requirements and standards specified for the use.

**D. The following commercial uses:**



1. Home occupations, including bed and breakfast inns, subject to MCC 17.139.060(C) and the requirements in MCC 17.139.070(B).
2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.139.040(F), and subject to MCC 17.139.060 (L), but including a winery not permitted under MCC 17.139.040 (B).
3. Dog kennels in conjunction with a dwelling occupied by the kennel operator; subject to ~~MCC 17.139.060(E)~~ and the requirements in MCC 17.139.070(B).
4. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities:
  - a. Existing composting operations and facilities that do not meet 17.139.020(S) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-006.
  - b. New composting operations and facilities that do not meet 17.139.020(S) may be established on land not defined as high-value farmland subject to the following:
    1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
    2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
    3. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.
10. Dog training classes or testing trials not permitted under MCC 17.139.040(M)

**17.139.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.**

The following regulations shall apply when property line adjustments and partitions of land within a FT zone subject to the provisions of Chapter 17.172 MCC are proposed:

- D. Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
2. A property line adjustment may not be used to:
  - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
  - b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.
3. Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.139.030(E) so long as the adjustment:
  - a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and
  - b. Does not increase the potential number of dwellings on the resulting parcels.

## CHAPTER 17.178 FLOODPLAIN OVERLAY ZONE

**17.178.020 DEFINITIONS.** For purposes of this overlay zone the following terms shall mean:

- G. “Development” means any man-made change to improved or unimproved real estate, including but not limited buildings or other structures, fencing, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.
- GH. “Existing manufactured home park or subdivision” is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed was completed before the effective date (August 15, 1979) of the community’s floodplain management regulations. The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
- HI. “Encroachment” means any obstruction in the floodplain, which affects flood flows.
- IJ. “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

- JK. "Floodplain boundary floodway map (FBFM)" means the map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the floodplain, floodway (and floodway fringe) and cross sections (referenced in the text portion of the FIS).
- KL. "Floodplain development" means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the floodplain.
- LM. "Floodway fringe" means the area of the floodplain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- MN. "Floodplain" means lands within the county that are subject to a one percent or greater chance of flooding in any given year and other areas as identified on the official zoning maps of Marion County.
- NO. "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (floodplain) and the risk premium zones applicable to the community and is on file with the Marion County planning division.
- OP. "Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood and is on file with Marion County planning division.
- PQ. "Floodproofing" means combination of structural or non-structural provisions, changes or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
- QR. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodways are identified on the flood insurance rate maps (FIRMS) for Marion County. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.
- RS. "Highway ready recreational vehicle" means a fully licensed recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- ST. "Lowest floor" means the lowest floor of the lowest enclosed, unvented area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this zoning code.
- TU. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes mobile homes as defined in subsection (W) of this section. For insurance and floodplain management purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles as defined in subsection (AA) of this section.

- UV. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots or spaces for rent or sale.
- VW. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.
- WX. "Mobile home" means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by subsection (AA) of this section.
- XY. "New construction" means any structure(s) for which the start of construction commenced on or after the effective date of the floodplain overlay zone (August 15, 1979).
- YZ. "Obstruction" means any physical object which hinders the passage of water.
- ZAA. "Permanent foundation" means a natural or manufactured support system to which a structure is anchored or attached. A permanent foundation is capable of resisting flood forces and may include posts, piles, poured concrete or reinforced block walls, properly compacted fill, or other systems of comparable flood resistivity and strength.
- AABB. "Recreational vehicle" means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801.350, and 801.565 that is intended for temporary human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in subsection (W) of this section.
- BBCC. Reinforced Pier. At a minimum, a "reinforced pier" must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers. When piers exceed 36 inches under "T" beams or 48 inches under floor systems they are required to be designed by an engineer licensed in Oregon.
- CEED. "Special flood hazard area (SFHA)" means an area subject to inundation from a 100-year flood (identified on the FIRM by the letter "A", e.g. A, AE, A1-A30, AO, AH, etc.).
- DEEE. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- EEFF. "Substantial damage" means flood related damage when the cost of restoring the structure would equal or exceed 20 percent of the market value of the structure before the damage occurred.

~~FFGG~~<sup>7</sup>. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 20 percent of the assessed value of the structure:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
  - a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions;
  - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

~~GGHH~~. "Watercourse" means a natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplains.

~~HHII~~. "Water-dependent" means a use or activity that can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water related transportation, recreation, energy production or source of water. These uses include structures that to serve their purpose must be in or adjacent to water areas, such as bridges, culverts, and erosion and flood control structures.

~~IJJJ~~. "Wet floodproofing" means a method of construction using building materials capable of withstanding direct and prolonged (72 hours) contact with floodwaters without sustaining significant damage (any damage requiring more than low-cost cosmetic repair, such as painting), consistent with FEMA Technical Bulletin 7-93.

~~JKKK~~. "Zoning administrator" shall be the planning director or his designee.

**17.178.060 FLOOD PROTECTION STANDARDS.** In all areas of identified floodplain, the following requirements apply:

- A. Dwellings, Manufactured Homes and Related Accessory Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this title shall:
  1. Dwellings and accessory structures, except as provided for in 7 and 8 of this subsection, shall have the top of the lowest floor, including basement, elevated on a permanent foundation to two feet above base flood elevation and the bottom of the lowest floor constructed a minimum of one foot above the base flood elevation. Where the base flood elevation is not available, the top of the lowest floor, including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site and the bottom of the lowest floor elevated to one foot above the highest adjacent natural grade (within five feet) of the building site; and
  2. Manufactured homes shall have the bottom of the longitudinal chassis frame beam, including basement, elevated on a permanent foundation to two feet above base flood elevation. Where the base flood elevation is not available, the finished floor, including basement shall be elevated on a

permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site; and

3. Manufactured homes shall be anchored in accordance with subsection (D) of this section; and
4. No new dwelling or manufactured home shall be placed in a floodway. An exception to this prohibition may be granted if a floodplain development permit, and variance consistent with MCC 17.178.080, are obtained; and
5. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
6. Construction where the crawlspace is below-grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawlspace construction:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - b. The bottom of all openings shall be no higher than one foot above grade;
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
  - d. Interior grade of the crawlspace shall not exceed two feet below the lowest adjacent exterior grade;
  - e. The height of the crawlspace when measured from the interior grade of the crawlspace (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four feet;
  - f. An adequate drainage system that removes floodwaters from the interior area of the crawlspace shall be provided; and,
  - g. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below grade-crawlspace construction in the special flood hazard area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be advised that buildings constructed with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction (the interior grade of the crawlspace is at or above the adjacent exterior grade).
7. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, may be constructed to wet floodproofing standards provided that:
  - a. The garage shall meet the standards for openings in subsection (A)(5) of this section; and

- b. The garage shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
8. A detached residential accessory structure may be constructed to wet floodproofing standards provided that:
  - a. The accessory structure shall be located on a property with a dwelling;
  - b. ~~The accessory structure shall be limited to vehicle parking and limited storage (no workshops, offices, recreation rooms, etc);~~ meet the criteria for a variance in MCC 17.178.090.
  - c. ~~The accessory structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;~~ and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - d. ~~The accessory structure shall not be used for human habitation~~ be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
  - e. ~~The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters~~ be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:
    - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - ii. The bottom of all openings shall be no higher than one foot above grade.
    - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - f. ~~The accessory structure shall meet the standards for openings in subsection (A)(5) of this section and,~~ Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one foot above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-condition equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site.
  - g. ~~The accessory structure shall meet the criteria for a variance in MCC 17.178.090.~~ be limited to vehicle parking and limited storage (no workshops, offices, recreation rooms, etc).
  - h. A declaratory statement is recorded requiring compliance with the standards in 17.178.060(A)(8)(b)(f) and 17.178.060(F)(3). The accessory structure shall not be used for human habitation.

- i. A declaratory statement shall be recorded requiring compliance with the standards in 17.178.060(A)(8)(d)-(h).

C. Non-residential Development

1. New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to two feet above the level of the base flood elevation, and where the base flood elevation is not available, the lowest floor, including basement, shall be elevated to two feet above the highest adjacent natural grade (within five feet) of the building site; or together with attendant utility and sanitary facilities, shall:
  - a. Be floodproofed to an elevation of two feet above base flood elevation or, where base flood elevation has not been established two feet above the highest adjacent grade, so that the structure is watertight with walls substantially impermeable to the passage of water.
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Be certified by a registered professional engineer or architect that the standards in this subsection are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed.
  - d. Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsections (A)(5) and (6) of this section.
  - e. Applicants floodproofing non-residential buildings shall be notified by the zoning administrator that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
2. New construction of any commercial, industrial or other non-residential structures are prohibited in the floodway. An exception to this prohibition may be granted if a floodplain development permit and variance consistent with MCC 17.178.080 are obtained. This prohibition does not apply to water dependent uses.
3. An agricultural structure may be constructed to wet floodproofing standards provided that:
  - a. ~~The structure shall be used solely for agricultural purposes, for which the use is exclusively in conjunction with the production, harvesting, storage, drying, or raising of agricultural commodities, the raising of livestock, and the storage of farm machinery and equipment~~ meet the criteria for a variance in MCC 17.178.090.
  - b. ~~The structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade~~ and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - c. ~~The structure shall not be used for human habitation~~ be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
  - e. ~~The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters~~ be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a



registered professional engineer or architect or must comply with the following standards:

- i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- e. The structure shall meet the standards for openings in subsection (A)(5) of this section. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one foot above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-condition equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site. and,
- f. The structure shall meet the criteria for a variance in MCC 17.178.090, be used solely for agricultural purposes, for which the use is exclusively in conjunction with the production, harvesting, storage, drying, or raising of agricultural commodities, the raising of livestock, and the storage of farm machinery and equipment.
- g. The structure shall not be used for human habitation.
- h. A declaratory statement shall be recorded requiring compliance with the standards in 17.178.060(A)(8)(c)-(g).

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DLCD  
635 CAPITOL ST NE STE 150  
SALEM OR 97301